

CORRESPONDENCE—CASE OF CAPTAIN WALTER M.
GIBSON.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING

Copies of correspondence in the case of Captain Walter M. Gibson.

DECEMBER 21, 1854.—Referred to the Committee on Foreign Affairs, and ordered to be printed.

To the House of Representatives:

I transmit a report from the Secretary of State, with accompanying papers, in answer to the resolution of the House of Representatives of the 27th of July last.

FRANKLIN PIERCE.

WASHINGTON, *December 16, 1854.*

To the President of the United States:

The Secretary of State, to whom was referred a resolution of the House of Representatives of the 27th of July last, requesting the President to communicate to that body, if not incompatible with the public interest, "the correspondence between the Secretary of State and our minister to the Netherlands, in the case of Captain Walter M. Gibson," has the honor to lay before the President the accompanying copy of papers, embracing the correspondence called for by the resolution.

All which is respectfully submitted:

W. L. MARCY.

DEPARTMENT OF STATE,
Washington, December 16, 1854.

List of accompanying papers.

- Mr. Marcy to Mr. Belmont, August 8, 1853.—Extract.
 Same to same, (with enclosures,) September 6, 1853.
 Mr. Belmont to Mr. Marcy, (with enclosure,) October 18, 1853.—Extract.
 Mr. Marcy to Mr. Belmont, (with enclosure,) December 9, 1853.—Extract.
 Same to same, (with enclosure,) December 13, 1853.
 Mr. Belmont to Mr. Marcy, December 23, 1853.—Extract.
 Same to same, (with enclosure,) January 9, 1854.—Extracts.
 Same to same, (with enclosures,) January 20, 1854.—Extract.
 Same to same, February 6, 1854.—Extract.
 Same to same, February 28, 1854.—Extract.
 Same to same, (with enclosures,) March 5, 1854.—Extract.
 Captain Gibson to same, (with enclosures,) March 25, 1854.
 Mr. Belmont to same, May 5, 1854.—Extract.
 Mr. Marcy to Mr. Belmont, (with enclosure,) June 3, 1854.
 Mr. Belmont to Mr. Marcy, (with enclosures,) July 7, 1854.—Extract.
 Same to same, (with enclosures,) September 9, 1854.
 Same to same, (with enclosures,) September 23, 1854.—Extract.
 Same to same, (with enclosures,) September 29, 1854.—Extracts.
 Mr. Marcy to Mr. Belmont, October 3, 1854.
 Mr. Belmont to Mr. Marcy, (with enclosures,) October 13, 1854.—Extract.
 Same to same, October 25, 1854.—Extracts.
 Captain Gibson to Mr. Marcy, November 11, 1854.

Mr. Marcy to Mr. Belmont.

[Extract.]

[No. 2.]

DEPARTMENT OF STATE,
Washington, August 8, 1853.

* * * * *

Among the first things to which your attention is invited, after your arrival at the Hague, is the case of Walter M. Gibson, an American citizen, who has for some time been held in duress by the Dutch authorities at Batavia, in the island of Java, on a charge of having attempted to excite the native chiefs of the island of Sumatra to throw off their allegiance to the Dutch government. As more than a year has already elapsed since a criminal prosecution was instituted against Mr. Gibson for this alleged offence, and as there is no prospect of the trial being speedily brought to a close, common humanity would seem to dictate that this government should interpose in his behalf, and either cause the vexatious proceedings which have thus been instituted against Mr. Gibson to be stayed, or at least prosecuted to a termination. If, therefore, there be no truth in the newspaper report that Mr. Gibson has recently made his escape from Batavia, and returned to New York,

which report lacks official confirmation, you will lose no time in making an earnest demand, through the Dutch Minister of Foreign Affairs, upon the government of his Majesty the King of the Netherlands, for the immediate trial or discharge of Mr. Gibson.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

AUGUST BELMONT, Esq., &c., &c., &c.

Mr. Marcy to Mr. Belmont.

[No. 3.]

DEPARTMENT OF STATE,

Washington, September 6, 1853.

SIR: You will see, by the enclosed copy of papers, that Mr. Gibson, whose case was brought to your notice in a despatch from this department, under date of the 8th ultimo, has effected his escape, and returned to New York, and that he now claims damages to the amount of \$100,000 from the government of the Netherlands, for injuries and losses sustained by him in consequence of certain singular and vexatious proceedings which it is alleged were instituted against him by the Dutch authorities at Batavia, in the island of Java.

You will lose no time in bringing this claim under the consideration of the government of the Netherlands, with an expression of the confident expectation of this government that, if Mr. Gibson's representations of the matter shall be found to be correct, he will be indemnified against all loss, and those who were engaged in the wrongful and oppressive proceedings against him will be treated with the severity their conduct deserves.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

AUGUST BELMONT, Esq., &c., &c., &c.

List of papers sent.

Mr. Gibson to Mr. Marcy, (with enclosure,) August 22, 1853.

Same to Secretary of State, August 23, 1853.

Mr. Gibson to Mr. Marcy.

WASHINGTON, D. C., August 22, 1853.

SIR: In accordance with your verbal request made to me on the 16th instant, I have now the honor to transmit to you, herewith, a condensed statement of the facts relative to the seizure of my vessel, the American schooner "Flirt," and of the imprisonment of myself and crew, by the authorities of the Netherlands India, which I have pre-

pared from authenticated documents on file at the State and Navy Departments.

I am, sir, with profound respect, your obedient servant,
WALTER M. GIBSON,

Late owner and commander of American schooner "Flirt."

The Hon. SECRETARY OF STATE,
Washington City.

Case of the "Flirt"—Walter M. Gibson.

I entered the Straits of Sunda with my vessel, the American schooner "Flirt," on the 25th December, 1851, on my way to Singapore; my ultimate destination, after some stay in the East Indies, being San Francisco. I passed the Straits of Sunda, traversed the Java Sea, and entered the Straits of Banca, without any incident occurring worthy of note.

On the afternoon of the 4th of January, 1852, I was about to enter into the China Sea, when a furious storm arose, which compelled me, on account of the obscurity and the dangerousness of the neighborhood in regard to shoals, to let go my anchors, without knowing, within several miles, my exact position. When daylight came on the morning of the 5th of January, 1852, I discovered that I was within a mile of the shore, and about three miles distant from the fort of Mintok, on the island of Banca.

Partly from curiosity, but principally from discovering that I had but a very limited supply of wood and water on board—by no means sufficient to last until I reached Singapore—I was induced to go ashore in my boat, when I addressed myself to Mr. Petrus Kamp, captain of the port, and receiver of customs of Mintok. After some conversation with Mr. Kamp, he expressed a pleasure at having made my acquaintanceship, especially as I was the first American that he had met with in those waters. He pressed me to stay a few days, in order to visit the chief authorities of the place, and the interesting tin mines of the island, assuring me, at the same time, that I should have assistance to procure whatever necessities I should want for my vessel.

As the "Flirt" was my own—as I had no cargo on board, nor interests of others on hand to require my proceeding to any particular part of the globe; and furthermore, as it was strenuously represented to me that in the then month of January I would have great difficulty in beating up to Singapore against the northwest monsoon—that it would occupy me at least thirty days to get there at that time, whereas by waiting a month or five weeks, I could at the commencement of the northeast monsoon make the run in less than three days;—with all these considerations in view, I concluded to make a short stay at Mintok, and accept of the proffered hospitalities.

I remained at Mintok until the morning of the 13th January, 1852, when I set sail in company with the transport barque "Jane," having Dutch officers and troops on board, whom I had been induced to accompany to Palembang, in Sumatra.

I had received and reciprocated many civilities from the President, Mr. Schaap, and his officers, during my stay at Mintok. I had become intimate with all the principal civil and military functionaries of the place; and when a portion of the military left to go to Palembang, I was readily persuaded to accompany them, as the contrary (northwest) monsoon was still in force, as I would be in good company to protect me against any attack of piratical Malays in the interior of Sumatra, as I had a safe guide in the barque "Jane," which had a pilot on board, and as Palembang was only forty-five miles out of my way en route to Singapore; so that I readily undertook this trip into the interior of Sumatra, in order to gratify what I felt to be a reasonable curiosity in visiting a country in which, hitherto, the flag of the United States had been totally unknown.

I did not procure a single weapon, chart, or anything at Mintok, that could warrant the supposition of any kind of evil intentions on my part, against Dutch power in those regions. Previous to my departure from Mintok, I asked for, and obtained from the authorities of the place, a Malay servant man, called Bahdoo Rachman, whom I got to serve me during my stay at Palembang, and also to teach me a little of the Malay language. Now this man, Bahdoo Rachman, proved to have been one of the private police of the President, Mr. Schaap, at Mintok, and also to have been one of the private police of the President, Col. de Brauw, of Palembang; and when he (Bahdoo) left Mintok with me on board the "Flirt," he was furnished with an especial pass, and with instructions to spy upon and report all my movements to the Dutch authorities at Palembang and elsewhere.

It must be borne in mind that I had excited the ill will and jealous surveillance of President Schaap, by my freedom of speech in the discussion of the Cuban affair; and it will appear evident from his testimony, given at the trial of the 14th of February, that he had become prejudiced against me before leaving Mintok; and the more so, as I enjoyed the especial friendship of Mr. Kamp, who is a Creole, and disliked by Schaap, who is a home-born Dutchman.

On my arrival at Palembang, January 17, 1852, I immediately waited upon the captain of the port, Mr. Daniel Fischer, with my vessel's papers; and then afterwards, at his suggestion, I waited upon Commander Nicolson, of the Dutch gun-brig "Pylades." This officer then proposed an introduction to Col. de Brauw, the President of Palembang, which took place on the following morning.

I was invited to dinner at the President's, and he and his officers dined with me on board the "Flirt;" thus several days were passed in receiving and reciprocating courtesies of various kinds.

The captain of the port of Palembang made me acquainted with Panyorang Sheriff Ali, a native chief of the Palembang territory; and, in like manner, others of the Dutch officers or civil functionaries at Palembang made me acquainted with various native chiefs of the interior, descending the river in their prahoos, and stopping in the neighborhood of the fort of Palembang.

Great numbers of these natives, of all ranks—some under the dominion of the Dutch, and others of independent tribes in the interior—came to visit the "Flirt," to admire the beauty of her model, her trim, and

her interior decorations; and I visited many of the chief natives in return, at their residences, on the various branches of the Palembang river; and among others there was one independent chief, with whom I entered into very important and interesting negotiations with regard to the extraction of coal, iron, caouchouc, and gutta percha, to be found in great abundance on his territories in the northern part of Sumatra.

I had discovered that Bahdoo Rachman, my Malay servant, was a man of lower caste than I had supposed, and incapable of teaching one his language; and, besides, he could not write it in the Arabic script, as customary with all educated Malays.

I expressed a wish to employ a better Malay scholar; upon which a man called Kiagoos Lanang was introduced to me, and I made an engagement to employ him on an occasion when I was at the house of M. de Vries, the secretary of the Assistant President of Palembang, Mr. Stoun Van S. Gravesande.

Shortly after the employment of Kiagoos Lanang, my first officer, Mr. Graham, expressed a desire to leave my vessel, in order to visit the interior of Sumatra, but more especially the territory called Korintjee, within the dominions of the Sultan of Jambee, a potentate of the northern part of Sumatra, this Korintjee country being famous for the production of gold, and valuable drugs and spices. I would have subjected myself to no particular inconvenience by losing the services of Mr. Graham, as I was promised by the captain of the port of Palembang a good coast and river pilot, and five additional men to navigate my vessel to Singapore; and furthermore, in regard to allowing the departure of Mr. Graham, I would only be anticipating what had to be done at Singapore, as I had been necessitated to ship Mr. Graham, a British subject, as first mate, on the coast of Brazil, where I had lost by an unfortunate event my former mate, because no American could be found there to act as officer for my vessel; so that I shipped him with the understanding that his services would cease on board the "Flirt" at the first port I should touch at, where there was a United States consul, and where an American officer could be procured. Although I at first consented to the departure of the mate, chiefly on account of his own request, yet, afterwards, I felt an interest to learn the results of his explorations in the interior.

I hoped to hear from him again, either before I left Palembang or at Singapore, and with a view to insure his safety and facilitate his movements, I ordered my secretary, Kiagoos Lanang, to write some lines as a kind of passport, to be addressed to the Sultan of Jambee, or other prince, to the north of Sumatra, stating my friendly regards, the skill and good character of the bearer, the value that his services might be to the native powers, and other remarks of a similar import, without dictating a single hostile word against the Dutch in that region.

I could not, at this time, hold any conversation in the Malay language—I merely knew the names of a few articles of common use. I did not then know a single character of the Arabic script, in which this letter to the Sultan of Jambee was written, and so had great difficulty, by signs and a few words, to intimate my desire to the writer.

Immediately after dictating the letter, as before stated, which happened on the afternoon of the 4th of February, 1852, I left my vessel

and went to join a party at a Chinese wedding feast, given by a rich Chinaman called Oey Tsi Yang. I was at the feast in company with Mr. de Vries, the secretary of the assistant President of Palembang, with Captain Valberg of the transport barque "Jane," and with some Dutch military officers. I left the feast in the same prahoo with de Vries and Valberg at a late hour, and all of the party were somewhat excited with the "tchoo," or arrack toddy, prepared by the Chinese.

On coming on board my vessel, a sheet of *blue* letter-paper, with some writing upon it in the Arabic character, was shown to me by Kiagoos Lanang, which I immediately signed without any hesitation, on account of suspicion that anything might be wrong. The piece of writing called the "treasonable letter," afterwards brought into court, and which is the sole foundation upon which the prosecution could base the charge of "high treason," was on *white paper*, the signature of which I did in court, and do now, declare to be a forgery.

The mate left the "Flirt" about 3 a. m., (a usual time to start on a day's journey in the East,) on the morning of the 5th of February, 1852. I remained unconscious of danger, on account of any wrong to the authorities of the place, until about 9 a. m. on the morning of the departure of the mate, when I was aroused by the coming of Commander Nicolson to my vessel, with twelve men to arrest me.

I then refused to be arrested, and threatened to resist any attempts to do so. I said that I would call upon the President de Brauw, and ascertain what had given rise to such extraordinary measures, about which I felt there must be some mistake.

Commander Nicolson left me at that time, stating that he would report my contumacious conduct to the President.

Upon his leaving me, I went ashore in my own boat, to have an interview with the President, but I was met, on landing, by a naval officer, bearing an order from the President, that I must not leave my vessel until further orders from him.

I returned to my vessel. I now perceived that my mate and the seaman, Orison Chaffee, who had accompanied him, were prisoners in the fort. About 4 p. m., the same day, the Assistant President of Palembang, Mr. Stoun Van S. Gravesande, and the captain of the port, Mr. Daniel Fischer, followed by Commander Nicolson at the head of fifty-two sailors and marines, came to arrest me.

Nicolson's manner was brutal towards me, and he hauled down the American flag, then flying on board my vessel, in an insulting manner, in the presence of thousands of natives assembled on the Palembang river, in prahoos, at the time of my arrest.

I would not answer Nicolson's offensive interrogatories, nor would I enter into explanations with any one, but invariably said, that now that I was a prisoner and my vessel seized, I would make no attempts to defend my conduct, except in the presence of some functionary of my own country, who could see whether I had fair play or not.

The "treasonable letter," the sole foundation for my arrest, was not shown to me at Palembang. I was not confronted with any of the natives, who had given the information about the letter, and the mate's departure to the authorities of that place. I was hurriedly thrown into

a cell in the fort of Palembang, and after a lapse of three days, was put on board the Dutch war-steamer, the *Arajoono*, which towed my vessel and took me and my men to Batavia.

Whilst in prison at Palembang, the President de Brauw visited me in my cell, on an apparently friendly errand, to express his regrets that it was his duty to send me to Batavia. The conversation I had with him during this interview, as misrepresented by him, was afterwards brought forward by the attorney general, as the chief evidence of my hostile intentions against the Netherlands India.

It will be seen by the testimony on the trial of the 14th of February, 1853, and in the "act of accusation," drawn up by the prosecution, that my servant and spy upon me (Bahdoo) had obtained for my mate a man called Moonchwa, also a policeman of the President de Brauw, whom he pretended to procure as a guide and comrade for himself (whom I had discharged,) to accompany Mr. Graham on his intended trip.

Whilst I was at the Chinese feast, and whilst Graham was making a few preparations for a tramp in the forest, the two men, Bahdoo and Moonchwa, were busy reporting to the authorities of Palembang about the letter and the journey to Jambee; and it is in evidence, that these men were going to and fro between the vessel and shore, and were engaged in conversations with Kiagoos Lanang in my cabin, during the writing of the letter.

The writer, Kiagoos Lanang, himself, also reported about the letter to the President, immediately after the departure of the mate.

I call special attention to the fact that these men, the active participants in, and actual executors of the "crime" alleged against me, the writer of the letter—Kiagoos Lanang, and the two police spies, Bahdoo Rachman, my former servant, and Moonchwa, his comrade—were the chief witnesses brought forward by the prosecution against me, and the *only ones*, as to the facts in the case.

These men are native police runners—Mahometans—and at the time of my leaving Java, were in the employment of the Dutch authorities at Batavia.

On my arrival in Batavia roads on the 13th of February, 1852, I was transferred to the guard-ship *Bonas*; and then, two days afterwards, on the 15th of February, I was sent to the prison of Witwerden, near Batavia, by order of the "fiscal," or public prosecutor. I underwent daily an examination before the "fiscal," without being allowed to communicate with a countryman or any kind of counsellor whatever. On the 16th of February I was allowed a short interview with Mr. Alfred Reed, acting United States consul for Java, who came to express his regrets that, in consequence of reports brought by Dutch officers of my being a pirate and an insurrectionary character, he had too hastily said that I ought to be hung at once, as there were too many dangerous fanatics in the United States. I must call attention to this language of Mr. Reed, notwithstanding his apologies, as it seriously prejudiced my case; for when Captain Magruder, with the United States ship *St. Mary's*, came to Batavia to inquire into my case, it was said to him by the president of that place, Mr. Van Rees, that if they, the Dutch authorities, had hung Captain Gibson when he was first arrested, they would have done no more than to act in conformity with

the suggestion of his countryman and country's representative at Batavia.

Mr. Reed left for the United States the day after his interview with me, so that the bad impression of his language remained unexplained. Mr. Reed is married to a Dutch lady, and is become a burgher of Batavia and subject of Netherlands India. There are only two other Americans by birth on the Island of Java; these also are burghers and Dutch subjects; and these facts I mention to account for the long inattention to my case. It was through the instrumentality of kind-hearted Dutchmen, who had become interested in me, that I was ultimately enabled to forward information of my case to the United States.

On the 21st of February, 1852, after remaining seven days in prison, the court of justice of Batavia (assembled in chamber of council) ordered my liberation, and that of my mate and men, on account of the informality of our arrest.

Immediately upon my liberation, I was warned by Mr. Cramerus, acting United States consul at Batavia, and by other persons, that the governor general was urging every exertion to be made to have me arrested; and I was advised to leave at once. This, of course, I would have done; but, as my vessel and her papers were held by the government, I felt that it would be ridiculous, after being discharged from prison, to run away and sacrifice my property through fear of being re-arrested on account of some additional imaginary crime that might be alleged against me.

On the 23d of February, the third day after my liberation, I was re-arrested by virtue of an order of the judge-commissary of the court of justice, in accordance with instructions from the attorney general.

On being re-arrested, I and my men were thrown into the "stad," or city prison of Batavia—a jail that is appropriated to the lowest class of native malefactors. I suffered severely in this place. I was in a confined cell not more than ten feet long by eight in width. Captain G. Basset, of the American ship *Rambler*, on hearing of my condition, made an energetic remonstrance about it to the attorney general, upon which, after a while, I was removed to a more comfortable room in the military prison of Wiltereden, which is a few miles beyond the city of Batavia.

From the time of this re-arrest until the arrival of the United States ship *St. Mary's* at Batavia on the 8th of July, 1852, nothing decisive had been done in my case. I had made out a lengthy statement, addressed to the governor general, in which I detailed the circumstances and occurrences of my late cruise up to the time of my arrest. In this communication I expressed many regrets for much imprudence of language on my part whilst in Sumatra, but denying the doing or advising of any hostile act against the government of Netherlands India. This personal appeal to the governor general's justice and magnanimity was simply handed over to the attorney general as evidence against me, but was rejected as such by the court of justice of Batavia.

I wrote to Commodore Aulick, commanding the United States squadron in the East Indies, on several occasions, praying for his interference in order that I might have justice. He replied that orders from the Navy Department forbade him to leave Canton with any portion of his squad-

ron on any account whatever; but he ultimately caused the *St. Mary's*, that was passing through the eastern seas on her way home, to call at Batavia, in order that her commander should inquire into my case.

Captain Magruder, of the "*St. Mary's*," opened a correspondence with the governor general of Netherlands India, but had to leave with his vessel without effecting anything in regard to the liberation of myself and mate. He was assured, on leaving, that within two or three weeks my case should be brought to a conclusion. I remained *nine months* closely confined in prison after the departure of the "*St. Mary's*."

After a long instruction or preliminary investigation of the case, during all of which I appeared *more than fifty times* before a judge commissary and the public prosecutor, *without the aid of counsel at any time*, a report was finally made by the "fiscal," or prosecutor, (Mr. De Wal,) to the court of justice, in which, by amply developed statements, he set forth that he could find no foundation for the charge of "high treason," of which I was accused by a high government officer, and in consequence recommended my liberation, which recommendation or requisition of the fiscal was acquiesced in by the court of justice by its sentence of acquittal and discharge, of date of the 25th August, 1852.

Again, the attorney general, or Crown solicitor, (*Procureur du Roi*), protested against this decision, and caused me to be re-arrested by virtue of a decree of the supreme court (or rather council, since its deliberations are secret) of Netherlands India, of date the 2d September, 1852, which ordained that the local court (court of justice) of Batavia should re-investigate my case. After this re-arrest, two judges of the court of justice were displaced, and two new ones were appointed by the government; also the prosecutor or fiscal, Mr. De Wal, was removed, and a Mr. Nolthenius was appointed in his place. Mr. De Wal was a mild and liberal man, long resident in Netherlands India, whilst Mr. Nolthenius was a young ambitious lawyer, a protégé of the *Procureur du Roi*, and quite recently arrived in Java from Holland. Notwithstanding these changes in the court, and notwithstanding the determined prosecution of the new fiscal, the court of justice of Batavia, after a laborious re-investigation, again declared, by sentence or verdict of the 22d December, 1852, that there were not sufficient grounds upon which to found an indictment in order to bring me into court to be tried for the crime of high treason. For the third time, the *Procureur du Roi* (Mr. Wijumalon) protested against this decision and against my liberation, and finally obtained from the supreme council a decree, of date the 30th December, 1852, peremptorily ordaining that the court of justice of Batavia should try me in court for the crime of high treason.

This public trial commenced on the 14th February, 1853, and lasted until the 24th of the same month. The most strenuous exertions were made by the government to obtain a conviction; it brought forward a formidable array of their officers, and of natives in their interest, to testify against me; but notwithstanding the most extraordinary measures were adopted to influence this court of justice in its action, yet it declared by a verdict, read in court on the 2d day of March, 1853, that I was not guilty of the crime of high treason according to the "*lex Julia Majestatis*" or the laws of Holland, although the verdict declared

that many of my acts whilst in Sumatra had evinced hostile feelings to the Netherlands Indian government, and deserving of reprehension.

By this verdict I was discharged from all prosecution of the charges as set forth in the act of accusation made out by the "prosecution." The verdict declared that the government should incur the costs of the proceedings, and that I should be reinstated in my rights and property.

This was not such an unqualified acquittal as the former ones, yet infinitely better than I could have expected after the powerful opposition made by the government. It must be borne in mind that the judges of the local courts are native-born, sons of Dutchmen or Creoles, mostly hostile to the home government, whilst the attorney general and members of the supreme council are appointed in Holland.

Conformable with instructions from the Hague, as I was informed by my counsel, the governor general and supreme council had resolved upon my conviction and death; as it was urged that my person and the case of the "Flirt" being known throughout the eastern Archipelago, my acquittal and liberation would cause a bad moral influence against the government in the minds of the native chiefs; and, furthermore, it was gravely brought forward by the Procureur du Roi, in his instructions to the supreme council, that he believed me to be a secret agent of the United States government; "*hence it was the more important to make a signal example of this first attempt of the American government, or American people, to encroach upon the dominions of the Netherlands,*" in the manner of the Cuban invasion. Thus, in consequence of the ignorance and *jealous policy* of the Dutch in the East Indies, and of their infamous system of espionage, I was basely entrapped, and underwent a painful imprisonment of sixteen months' duration; and had I not succeeded in escaping from prison on the 24th April, 1853, by the aid of some friends outside, I should have suffered death in a few days afterwards, by the arbitrary dictum of the governor-general of the Procureur du Roi, and of a secret tribunal, the supreme court or council of Netherlands India.

There is no copy at the State Department of the instructions of the "Procureur du Roi" to the supreme council, and of its final decree with regard to my death; yet I know that such instructions and decree (as communicated to me by my counsel, F. Alting Mees, esq., on the day of my escape) will be found on the rolls of the court of justice of Batavia.

I have suffered great loss of property, but an immeasurably greater one of health and time. Whatever might be the value of my vessel and property at home, they were worth to me in the East \$50,000; and I feel that \$50,000 more would not be an immoderate compensation for my loss of time and sufferings in prison.

But waiving my own personal case, and the just claim I feel that I have against the Dutch East Indian authorities, I do furthermore appeal to my government that it will take into consideration the insulting manner in which the American schooner Flirt was seized, and the United States flag hauled or torn down at Palembang, in Sumatra; and also the imprisonment and sufferings of Mr. Charles M. Graham, (who, although a British subject, and had left my vessel, yet underwent arrest, imprisonment, and trial, as mate of the American schooner

Flirt,) whom I left in prison, too weak to make an attempt to escape; also, that it will not be unmindful of the case of my cabin boy, Antony Pirez, whom I left also in prison, and of the innocent American and other seamen, the crew of the "Flirt," who suffered even a worse imprisonment than myself, and yet who could not be supposed to have, and never were charged with, any participation in my alleged criminal correspondence to disturb the peace of Netherlands India.

WALTER M. GIBSON,

Late owner of the American schooner Flirt.

WASHINGTON CITY, *August 22, 1853.*

WASHINGTON, D. C., *August 23, 1853.*

SIR: I have the honor to address you in order to call the attention of my government to the case of Charles M. Graham, late mate of the American schooner Flirt, while detained in prison at Batavia on the charge of "high treason," and now condemned to one of the penal fortresses of Java.

In my condensed statement of facts relative to the case of the "Flirt," which I had the honor to transmit to you yesterday, I mentioned that, according to the information of my counsel, the instructions to the attorney general to the supreme court of Netherlands India had been that the sentence of acquittal of the court of justice of Batavia of the 28th February last (read in court on the 2d of March) should be annulled, and that sentence of death should be pronounced against myself and my late mate. Now, the following announcement, translated from the "Javaasche Courant," the official journal at Batavia, of date the 25th May last, and published in the "Singapore Free Press" of the 3d June last, will confirm my statement of a *fourth* overruling by a *secret* tribunal of the decision of a court of justice, acquitting me of the crime of "high treason."

"On the 3d of May, 1853, the supreme court of Netherlands India annulled the sentence of acquittal pronounced by the court of justice of Batavia on the 28th of February last, in the matter of Walter M. Gibson, commander, and Charles M. Graham, mate of the American schooner Flirt. Both these persons are now declared guilty of high treason, and sentenced to be confined in a house of correction for a period of twelve consecutive years, preceded by a half hour's exposure under the gallows, and followed by perpetual banishment from Netherlands India; declaring them henceforth incapable of holding any dignity, employment, post, or service, and condemning them to pay all the costs of this process."

The change from the sentence of death to that of twelve years' hard labor in the penal fortress of Soorabagah (the only one in Netherlands India) was no doubt made after my escape, as the labor of the minor victim would be more profitable than his execution; but the latter sentence is perhaps more terrible than the capital one in that climate. And I now hasten to appeal to my government that it will give immediate attention to the case of the unfortunate Mr. Graham, who will now be suffering that from which I have so happily escaped.

I desire also to call attention to the case of the late cabin boy of "Flirt," Antony Pirez, who had been held in prison as a witness up to the time of my escape; and I trust also that the sufferings of the rest of crew of "Flirt," for the time they were held in prison, will receive an especial consideration at your hands.

I am, with profound respect, your most obedient servant,

WALTER M. GIBSON,

Late owner and commander of Flirt.

The Hon. SECRETARY OF STATE,

Washington, D. C.

Mr. Belmont to Mr. Marcy.

[Extract.]

[No. 3.]

LEGATION OF THE U. S. AT THE HAGUE,

October 18, 1853.

SIR: With reference to my last despatch, of 13th instant, (No. 2,) I have now the honor of waiting upon you with copy of a note I addressed yesterday to the Minister of Foreign Affairs in relation to the claim of W. M. Gibson, for losses and injuries sustained by his long and protracted duress in the Dutch East Indies.

You will please perceive by my letter, that, in conformity with your instructions, I not only pressed upon the consideration of this government the claim of Mr. Gibson, and the punishment of the persons implicated in the cruel and vexatious treatment he was subjected to, but that I also directed the special attention of the minister to the cruel fate of the remaining crew of the "Flirt," still in prison at Java, and to the extraordinary manner with which Commander Nicolson, an officer of the Dutch navy, hauled down the American flag on board of Captain Gibson's vessel, at the time of the latter's arrest.

Though your instructions accompanying Mr. Gibson's recital of facts have only reference to his claim for indemnity, I have deemed it my duty to dwell more particularly upon these two points, which, in my judgment, aggravate very much the conduct of the Dutch officials, and are fully entitled to the interference of our government.

I accompanied my letter to the minister by a very copious extract of Mr. Gibson's recital, in which I left out some expressions of his in reference to the jealous policy and system of espionage of the Dutch home government, which could in no way add to the strength of his case, and might, on the contrary, seriously injure it. I further omitted the episode referring to Mr. Alfred Reed, acting United States consul at Java, who had expressed himself that Gibson ought to be hung at once; because, though that gentleman repented this hasty and unjustifiable remark, I cannot see what possible good the recital of these circumstances to the Dutch government can effect for Mr. Gibson.

From the assurances which the minister gave me at our last interview, I hope that he will give this matter his early attention; and in

the subsequent conversations which I doubtlessly shall soon have the opportunity to have with him, I shall take occasion, in conformity with your note of August 8, last, (No. 2,) to point out to him the exclusive and illiberal policy pursued by the Dutch government in excluding our consuls from its colonies, while all our ports, without a single exception, are thrown open to the consuls of the Netherlands.

LEGATION OF THE U. S. AT THE HAGUE,
October 17, 1853.

SIR: In pursuance of our verbal conversation, I have now the honor to lay before your excellency a statement of the facts relating to Walter M. Gibson, in the Dutch East Indies, as they have been furnished by that gentleman to the government of the United States.

You will see by the perusal of this document, that Walter M. Gibson, an American citizen, and commander and owner of the American schooner *Flirt*, was arrested by an officer holding the commission of his Majesty the King of the Netherlands, in the island of Sumatra, on the 5th of February, 1852, on an alleged charge of high treason; that the American flag on board was hauled down, and she herself confiscated.

Mr. Gibson was then transferred to Batavia, where he remained in prison until the 24th of April, 1853, a period of nearly sixteen months; when, having reason, from information which reached him from outside, to apprehend a still worse fate, he effected his escape.

During that period he suffered reverse, hardships, and cruel treatment, being for a long time confined in a jail appropriated to the lowest class of native malefactors, from which he was only changed to a somewhat more comfortable room in the military prison of Wilterveden in consequence of the energetic remonstrances of Captain G. Basset, of the American ship *Rambler*.

You will also perceive by this statement, that the alleged charge of high treason has never been proved against Captain Gibson, notwithstanding that he was tried three different times, by different judges of the court of justice of Batavia.

That court, on the contrary, fully acquitted him of the charges brought against him, at these three different trials, on the 25th August, 1852, 22d December, 1852, and 2d March, 1853; and, moreover, ordained that he should be reinstated in his right and property.

It is further shown by Mr. Gibson, that the whole proof upon which the prosecution against him rested, and for which he suffered for sixteen months the most ignominious imprisonment, consisted in a letter written in the Malay language by the accomplice of a discharged servant of his; and which letter, as well as its signature, he pronounced then, and pronounces now, to be a forgery.

Mr. Gibson has, by the confiscation of his vessel, and by the long protracted imprisonment endured under vexatious and harassing circumstances, not only sustained very heavy pecuniary losses, but his health has also been very much impaired and weakened.

He claims now from the government of the Netherlands damages to the amount of one hundred thousand dollars, for injuries and losses

sustained by him, and I am instructed by the President of the United States to bring the facts, as related by him, to your knowledge, and his claim for indemnity to your particular consideration.

From the known high sense of justice and the liberal and enlightened policy of the government of his Majesty the King of the Netherlands, not less than from the friendly relations so long and happily existing between the two countries, the President entertains the confident hope and expectation that if Mr. Gibson's statement of the case be found correct, he will be fully indemnified against all losses and injuries sustained by him, and that those who were engaged in the wrongful and oppressive proceedings against him will be treated with the severity their conduct deserves.

I hope that your excellency will give this matter your kind and early consideration, so that by a full and prompt investigation, not only the claims of Mr. Gibson may be adjusted, but also that the still remaining sufferers of these extraordinary proceedings, the mate, the cabin boy, and others of the crew of the schooner "Flirt," may at once be released from their duress.

The cruel treatment of the crew of that vessel, who, notwithstanding that they were never charged with any participation in the alleged criminality of Mr. Gibson, suffered, according to the latter's account, even a worse imprisonment than he himself, is deserving of your full sympathy, and claims, particularly, your prompt and energetic interference.

Not less must I direct your especial attention to the manner in which Commander Nicolson effected the arrest of Mr. Gibson, and, according to the latter's statement, hauled down, in an insulting manner, the American flag on board of a vessel belonging to a citizen of the United States.

This conduct on the part of an officer holding his Majesty's commission, appears the more extraordinary from the fact that the court of justice of Batavia ordered the liberation of Gibson on the 21st February, 1852, on account of the informality of this very arrest.

I have the honor to renew to your excellency the assurance of my distinguished consideration.

AUGUST BELMONT.

His Excellency M. VAN WALL,
Minister of Foreign Affairs, &c., &c.

Mr. Marcy to Mr. Belmont.

[Extract.]

[No. 5.]

DEPARTMENT OF STATE,
Washington, December 9, 1853.

SIR: I have to acknowledge the receipt of your despatches to No. 7 inclusive.

Since last I wrote to you on the subject, Captain Gibson has communicated to this department some additional papers, in support of his

claim against the Dutch government, a copy of which is herewith transmitted to you.

* * * * *

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

AUGUST BELMONT, Esq., &c., &c., &c.

Mr. Marcy to Mr. Belmont.

[No. 6.]

DEPARTMENT OF STATE,

Washington, December 13, 1853.

SIR: Enclosed I send you the copy of a letter, dated the 6th instant, from Mr. Gibson, relative to the recovery of sundry papers which, it is alleged, were lent by him to the prosecuting officer of the court of justice of Batavia in the year 1852.

You will take an early opportunity to address a note upon the subject to the Dutch Minister of Foreign Affairs, and request him to use his good offices in causing the papers referred to to be communicated to you for transmission to this department.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

AUGUST BELMONT, Esq., &c., &c., &c.

Mr. Gibson to Mr. Marcy.

NEW YORK, *December 6, 1853.*

SIR: During my detention in Batavia by the Dutch authorities, and after a seizure of papers found on board the "Flirt," I ascertained that a number of other papers belonging to me had been preserved in a remarkable manner by one of my crew. These papers I proposed to submit to the fiscal, or prosecuting officer of the court of justice of Batavia, for the purpose of laying them before the governor general, Mr. Dumayer Van Twist, for his enlightenment in regard to the antecedents of the cruise of the "Flirt," on the express condition and pledge that these papers should be returned to me independent of any adjudication in my case.

Mr. De Wal, the fiscal, accepted these conditions, and pledged himself that the papers should be returned to me, after they had answered the purpose of giving the information I desired to impart. In accordance with this positive understanding, I sent, on or about the 20th of February, 1852, a statement to the governor general of Netherlands India, accompanied by seventeen packages of papers, marked from A to Q, together with the log of the "Flirt." These papers were accompanied by a note, reciting the conditions upon which they were given up. A copy of this note may be found on file at the State Department, in the despatch of Mr. Commissioner Marshall, No. 7, page 58, (red

ink.) This note was agreed to by the judges commissary, Mr. F. H. E. Schusler and Mr. P. Van Braam, van son, and concurred in by Mr. H. K. Nolthenius, the fiscal succeeding Mr. De Wal.

No portion of these papers were ever made use of at any time in the judicial proceedings instituted against me, with the exception of a letter addressed to me by Mr. William Van Wyck, of South Carolina, and of one from me to Mr. Beaugureau, of Philadelphia. On this account, of their not having formed a portion of any legal proceedings instituted against me, with the exceptions mentioned, as well as by reason of the pledge given me to return them, I now desire respectfully to call the attention of your department to the facts above recited, and to state that these papers and the log of the "Flirt" contain matter of especial importance to my private interests at this time, and if much longer detained from my control, would cause me an additional injury to those already sustained at the hands of the Dutch authorities in Netherlands India.

I therefore solicit, on your part, Mr. Secretary, such action in my behalf for the repossession of the log and papers as you may deem appropriate.

I am, with profound respect, your most obedient servant,

WALTER M. GIBSON.

Hon. W. L. MARCY,
Secretary of State.

Mr. Belmont to Mr. Marcy.

[Extract]

LEGATION OF THE U. S. AT THE HAGUE,
December 23, 1853.

SIR: In the rare intervals in which I have been thus enabled to see Mr. Van Hall and the first secretary of his department, I have taken every opportunity to urge upon them the case of Captain W. M. Gibson, requesting an early action upon my note of 17th October, and a settlement of his claim. The only reply, however, which I could elicit was, that the matter had been referred to the East India government, and until a reply was received from there, nothing could be done in the premises. As regards the first mate, Mr. Graham, the minister told me that he had behaved himself very well since his imprisonment, and that he was in all probability to be soon pardoned. In fact, I infer from his manner that orders to that effect have already gone out to India. This sudden change in favor of Graham may either be caused with a view of conciliating the English government, whose close proximity to their East India possessions renders the Dutch very cautious in their dealings with it; or, what I think still more likely, it is done in order to make it appear as if it had been proved that Graham was only the innocent instrument in the hands of Gibson, so as to throw all the guilt on the latter, and thus to justify the sequestration of his property and all the hardships to which he has been subjected. I hope I may be

mistaken in my previsions, but all these movements inspire me with the belief that this government intends avoiding the payment of Mr. Gibson's claim by procrastination and statements hereafter to be produced from Java, proving his guilt, notwithstanding the acquittal he received three different times at the hands of the courts of Batavia. I hope, therefore, that in accordance with the request expressed in my despatch of 1st of November, (No. 5,) you will, as much as lies in your power, put me in possession of all the facts and circumstances connected with the case; and, if possible, obtain statements of Mr. Gibson, so that I may be prepared to urge his case vigorously when this government will have received a reply from the East Indies."

Mr. Belmont to Mr. Marcy.

[Extracts.]

[No. 11.]

LEGATION OF THE U. S. AT THE HAGUE,

January 9, 1854.

SIR: I have the honor to acknowledge the receipt of your despatches (Nos. 5 and 6) of 9th and 13th instant, which reached me by last steamer.

By the first, you communicate to me some additional papers received from Captain W. M. Gibson, in support of his claim against the Dutch government, of which I shall make the necessary use in urging that claim and its settlement upon the authorities here.

In about four or five weeks the time will have elapsed in which the ministry can have heard from Java, in reply to my letter to Mr. Van Hall, of 17th of October last, and I shall then insist upon an early action, or, at all events, upon an unequivocal and written reply to my first named letter.

By your second despatch, you hand me a letter of Captain Gibson relative to the recovery of sundry papers, which were lent by him to the prosecuting officers of the court of justice of Batavia, in the year 1852, with the express understanding and pledge that they were to be returned to him.

In compliance with your instructions, I have addressed the Minister of Foreign Affairs in relation to this affair, and beg to enclose you herewith copy of my letter to him, to which I am as yet without any reply. I shall, within a few days, take an opportunity to see him, as well as the minister of the colonies, and urge upon them the necessity of an early action in the Gibson affair generally.

LEGATION OF THE U. S. AT THE HAGUE,

January 4, 1854.

SIR: I have the honor to inform your excellency that, according to a communication made by Mr. Walter M. Gibson, late captain and owner of the United States schooner "Flirt," to the government of the

United States, under date of 6th December last, a number of papers belonging to that gentleman had been preserved by one of the crew of his vessel, when the latter was seized by the Dutch authorities in Java.

These papers Mr. Gibson proposed to submit to the fiscal, or prosecuting officer of the court of justice of Batavia, for the purpose of laying them before the governor general, Mr. Duymaer Von Twist, for his enlightenment in regard to the antecedents of the cruise of the "Flirt," on the *expressed condition and pledge, however, that these papers should be returned to him independent of any adjudication in his case.*

According to the communication of Mr. Gibson, these conditions were agreed to by Mr. De Wal, the fiscal, who pledged himself that the papers should be returned after they had answered the purpose of giving the information which Mr. Gibson desired to impart.

In accordance with this positive understanding, Mr. Gibson sent, on or about the 20th February, 1852, a statement to the governor general of Netherlands India, accompanied by seventeen packages of papers, marked from A to Q, together with the log of the "Flirt." These papers were further accompanied by a note, reciting the conditions upon which they were given up, and which note was agreed to by the judges commissary, Mr. F. H. E. Schusler, Mr. P. Van Braam, van son, and concurred in by Mr. H. K. Nolthenius, the fiscal succeeding Mr. De Wal.

No portion of these papers were ever, according to Mr. Gibson's account, made use of at any time in the judicial proceedings instituted against him, with the exception of a letter addressed to him by Mr. Wm. Van Wyck, of South Carolina, and of one from him to Mr. Beauregureau, of Philadelphia. On this account, of their not having formed a portion of any legal proceedings instituted against him, with the exceptions just mentioned, as well as by reason of the pledge given him to return them, Mr. Gibson claims their being given up to him, as those papers and the log of the "Flirt" contain matter of especial importance to his private interests at this time, and if much longer detained from his control, would cause him an additional injury to those already sustained by him at the hands of the authorities in Netherlands India.

In pursuance of the above communication of Mr. Gibson, I am instructed by my government to request your good offices in causing these papers to be communicated to me at an early date, so that I may transmit them to the Department of State of the United States, to be returned to their rightful owner.

Requesting from your kindness an early action in the premises, I have the honor to renew to your excellency the assurance of my distinguished consideration.

AUGUST BELMONT.

His Excellency MONSIEUR VAN HALL,

Minister of Foreign Affairs, &c., &c., &c.

Mr. Belmont to Mr. Marcy.

[Extract.]

[No. 13.]

LEGATION OF THE U. S. AT THE HAGUE,
January 20, 1854.

SIR: I have the honor to-day to wait upon you with the enclosed copy of a letter from the Minister of Foreign Affairs, in reply to my note of the 4th instant, by which I asked his good offices for the restitution of Captain W. M. Gibson's papers, mentioned in your despatch of 13th of December last. You will perceive that the minister promises to write in reference to them to the Dutch governor-general in India; and that he also holds out a hope of soon replying to my letter of 17th October past, by which I urged the claim of Mr. Gibson for damages for the losses and injuries sustained by him. The manner with which Mr. Van Hall speaks of the matter, evidently manifests a determination to withstand the claim of Mr. Gibson, and to justify the cruel treatment to which he was subjected by the Dutch authorities; a course which, as you will remember, I predicted at the time as likely to be pursued by this government, notwithstanding the fair promises made by the minister when I first broached this subject to him. At all events, I thought well to seize this opportunity, in order to urge the matter again in the reply which I made to the above note, and in which I took also occasion to refute the preliminary remarks of Mr. Van Hall, prejudicial to Mr. Gibson, without, however, entering into the details of the evidence sent to me by your letter of 9th December, and which I deem more expedient to reserve until I receive the promised definitive communication from Mr. Van Hall. This latter, I think, will now soon be forthcoming; because, from a passing observation from the minister of the colonies, I judge that the government has received all the papers in reference to this case from India, and that they have been handed over to the ministry of foreign affairs. The minister of the colonies denied to me, in conversation, the fact stated by Mr. Gibson, that the local court of Batavia had acquitted the latter three different times, and I suppose the same denial will be given in the official reply of Mr. Van Hall; and though the testimony of Capt. W. W. Smith corroborates Mr. Gibson's statement to that effect, it would still be very desirable if we could procure some further evidence in support of these facts, through the commercial agent of the United States at Batavia, or by any other of our civil or naval officers in those regions you deem proper. I also beg to observe to you, that in a conversation which I had a few evenings ago with Mr. Rochussen, who has been governor-general of Dutch India for a number of years, he asserted that the Sultan of Jambee is really under Dutch dependency; that the treaties to that effect have been ratified; and that so far from no Dutch officers, either civil or military, having resided in the Jambee territory, as Mr. Gibson mentions in his last memorandum, there had been under his (Rochussen's) administration, already, a Dutch collector of revenue residing in that territory. Mr. Rochussen is at present entirely disconnected with the government, though, as a member of the second chamber, he votes with the ministers.

[Translation.]

THE HAGUE, *January 11, 1854.*

As a preliminary reply to your communication of the 4th instant, I have the honor to inform you that the demand of Mr. Walter M. Gibson, for the restitution of certain papers and the log of his vessel, will be immediately communicated to the governor-general of Batavia.

It is only in the colony that the contents of the assertion that those papers were delivered to the officer of justice on the express condition of their being subsequently returned, can be ascertained; as also of the other assertion, that at the time of the trial no use would have been made of the greatest portion of those papers, for the purpose of determining whether there would or would not be occasion for the restitution of said papers, either in whole or in part.

Referring, for the present merely, to this communication, I can add that I hope to have it soon in my power to reply to your despatch of October 17, 1853, relative to the claim of Mr. Walter M. Gibson, and to convince you that he alone is the author of the evil, and that he is wrong in trying to render the Netherland colonial authorities responsible for his losses.

In the meanwhile, I avail myself of this occasion to renew to you the assurances of my distinguished consideration.

VAN HALL.

MR. BELMONT,

Chargé d'Affaires of the United States of America.

LEGATION OF THE U. S. AT THE HAGUE,
January 15, 1854.

SIR: I have the honor to acknowledge the receipt of your excellency's favor of the 11th of this month, by which I see, with pleasure, that you have communicated the demand of Mr. W. M. Gibson for the restitution of his papers and the log of his vessel to the governor-general of his Majesty at Batavia. I have no doubt but what that functionary will find the circumstances connected with those papers such as I had the honor to state them to you by my letter of the 4th instant, and that he will therefore cause their restitution to their rightful owner at as early a period as possible.

The further assurance contained in your letter, that you will soon be able to reply fully to my note of 17th October past, has been gratefully received by me, as the severe hardships and losses sustained by Mr. Gibson are fully deserving of a prompt and satisfactory action in his case. Allow me, however, to observe to you, with all due deference, that, from a full knowledge of the facts, as they have been communicated to me by my government, I can hardly believe that you can thus far be correctly informed of the circumstances connected with this very extraordinary case, when you state soon to be able to convince me that Mr. Gibson has brought all he suffered at the hands of the Dutch authorities in the East Indies upon himself, and that he is not

entitled to hold them responsible for all the hardships and losses he has sustained. Some further documentary evidence, which I have received from my government by the late steamers, corroborates entirely the circumstances which I had the honor to communicate to you by my note of 17th of October last, and among which I beg for the present only to enumerate the fact, sworn to by competent witnesses, that Captain Gibson had been three times subjected to judicial investigation of the charges preferred against him in the local courts of Batavia, and had been acquitted on each occasion, and that these decisions were overruled by a secret council or tribunal before which Captain Gibson was not entitled to appear, or urge his defence. The same undeniable evidence is also furnished of the fact, that Mr. Gibson was confined for a long time in the worst cell of the Stadt-huis prison of Batavia, together with condemned malefactors of the lowest class of natives, and contrary to the criminal regulations of your colonies, which prevent the placing of *accused* parties with *condemned* criminals, and that it was only at the energetic remonstrances of Captain Bassett, of the American ship Rambler, against the unhealthiness and filthiness of the place, that he was removed from this loathsome prison to a somewhat better place of duress. As soon as your excellency will be prepared to communicate more definitely with me on this subject, which I hope will be at an early date, I shall, with pleasure, lay this evidence more in detail before you; and I have that full confidence in the justice and equity of his Majesty's government, not to doubt for a moment that Mr. Gibson's claim for a full indemnity for the serious losses he has sustained will find an early and satisfactory settlement at your hands, and that the authors and perpetrators of the cruelties to which he was subjected will meet with a condign and severe punishment.

I have the honor to renew to your excellency the assurance of my distinguished consideration.

AUGUST BELMONT.

His Excellency M. VAN HALL,
Minister of Foreign Affairs, &c., &c., &c.

Mr. Belmont to Mr. Marcy.

[Extract.]

[No. 14.]

LEGATION OF THE U. S. AT THE HAGUE,
February 6, 1854.

Since the date of my last despatch, of 20th of last month, (No. 13,) I have in vain expected the promised communication from the Minister of Foreign Affairs in relation to the claim of Mr. Gibson, though I have taken occasion once or twice to broach the subject to him in conversation. The fact of his being charged, *ad interim*, with the portfolio of the Minister of Finances, and the very threatening turn which the Eastern question has taken of late, absorb his time so much that I am afraid some weeks will yet elapse before he will be able to give his attention to this matter. As, however, the term in which full replies

can be received from India to my note of last October will elapse in the course of this month, I shall insist upon a definite answer if by the end of this month he has made no further communication to me. Though I fear that there is very little disposition to do justice to Mr. Gibson's claim, and that the expected note of the minister will be adverse to admit it altogether, I find M. Van Hall on all other occasions express the most friendly feelings for the United States, and an earnest desire to cultivate the most amicable relations with us.

Mr. Belmont to Mr. Marcy.

[Extract.]

[No. 15.]

LEGATION OF THE U. S. AT THE HAGUE,
February 28, 1854.

In these different interviews, I have also taken occasion to press the claim of Mr. Gibson upon the consideration of the minister, from whose assurances I am in daily expectation of a full and detailed reply to my communication of 17th October last, which he told me he was only now able to give me, having just received the necessary information from Batavia. The letter has been sent to the minister of the colonies for inspection, and will, in all probability, be forwarded to me in the course of the next few days, when I shall not lose any time in communicating its contents to you. From the verbal explanations made to me by both the ministers, I am led to believe that the reply of this government will be unfavorable to the claim of Mr. Gibson, whose sufferings and losses they say have been brought upon himself by his own misconduct, according to the evidence of the colonial officials. To my repeated exceptions to this assertion, based upon the representations of Mr. Gibson, and upon the fact that he had been acquitted three times of the charges preferred against him by the local courts of Batavia, the minister of the colonies assured me most solemnly that such was not the case; and when I told him that a trustworthy witness, present at the time in Batavia, had made an affidavit to that effect, Mr. Pahud said that the person could have only sworn to a hearsay—story—which was not borne out by the facts. I have of course now to wait until I have received the promised letter from Mr. Van Hall, containing, as I am assured by him it will, a complete refutation of the statements of Mr. Gibson, and shall then be guided in my future actions by circumstances and by your instructions.

Mr. Belmont to Mr. Marcy.

[Extract.]

[No. 16.]

LEGATION OF THE U. S. AT THE HAGUE,
March 5, 1854.

SIR: The long-promised letter of the Minister of Foreign Affairs, in reply to my note of 17th of October last, relative to the claim of Mr

Gibson, has at last been forthcoming. It is dated on the 25th of last month, but was only handed to me with its enclosures on the 1st inst.; and I now have the honor to lay a copy of it before you, accompanied by copies and translations of the different documents communicated to me at the same time.

I find, by a careful perusal of these papers, that the charge of great severity and cruelty having been practised on Mr. Gibson by the Dutch officials is not at all refuted by them, nor do I see in them a denial of the fact of the three acquittals of the court of Batavia, so unequivocally contradicted by Mr. Pahud. I have therefore deemed it proper to address at once some preliminary observations to the minister in reply to his note, in which I have tried to point out the apparent innocence of Gibson of the charges brought against him, and the high-handed and cruel manner with which the Dutch officials have proceeded throughout this whole transaction. In reference to my future movements in the premises, I shall await any further instructions which this communication of the minister, and the stand taken by the Dutch government, will probably suggest to you.

[Translation.]

THE HAGUE, *February 25, 1854.*

SIR: I have had the honor to receive your communications of October 17, 1853, and of the 15th of last January, concerning the reclamation of Mr. Walter M. Gibson, owner and master of the American schooner "Flirt," who was tried and sentenced at Batavia for high treason against the Netherland government. The statement of facts, such as Mr. Walter M. Gibson has just made after his flight from Batavia and his return to America, evinces a desire on his part to justify himself in the eyes of his government and of his countrymen by trying to lessen the criminality of his actions, and by accusing the Netherland authorities in the Provinces of violence, partiality, and injustice.

In order to refute these insinuations, it will be sufficient to place the facts in their true light. It appearing that Mr. Gibson was sailing without any determined object, and for his amusement or instruction, he was received at the time of his arrival at Banca and Palembang with the frankest hospitality, by both the Netherland authorities and the inhabitants. After remaining two weeks and a half at the latter place, however, he thought proper to cause a letter to be written, in the Malay language, to the Sultan of Djambi, a vassal of the Netherland government, and of sending it, said letter bearing his own signature and seal, to his mate, Mr. Graham, for the purpose of its being forwarded to that prince.

The arrest of Mr. Graham, who had set out clandestinely and without having asked or obtained from the Netherland authorities the necessary permission for travelling in the interior of the country, as well as the contents of the aforesaid letter hidden about his person, occasioned the seizure of the schooner "Flirt" and gave rise to the proceedings against Mr. Gibson.

The *procès verbal* of the arrest, under date of February 5, 1852, drawn up with simplicity and moderation, of which I take the liberty of enclosing a copy, explains at once the cause of said arrest, and the manner in which it was effected. I likewise add to it a copy of the *procès verbal* (evidence) upon the opening of the letters addressed to the Sultan of Djambi by Mr. Gibson. After having been imprisoned for three days at Palembang, in a comfortable room, the accused, as well as the ship "Flirt," were taken to Batavia by the royal navy steamer "Ardjoino."

The President of Palembang, however, instead of laying the matter immediately before the officer of justice at Batavia, having confined himself, in his capacity of civil functionary, to rendering an account of the affair to the governor general, this want of formality called forth the decree of the court of justice of February 21, 1852, a copy of which is herewith enclosed, setting forth that the accused ought to be set at liberty. Upon the subsequent requisition of the aforesaid officer of justice, said court, thinking that there were justifiable grounds for proceeding against Mr. Gibson and associates, issued an order, by decree of the 27th of the same month, directing that they should again be arrested.

In the meanwhile, under date of February 25, while he was at liberty, Mr. Gibson, under the impression that he would again be incarcerated, wrote to the governor general the letter, of which a copy accompanies this, in which he implores his clemency, acknowledges the imprudence of his actions, and asks for an immediate trial, in the hope that extenuating circumstances would cause a mitigation of the punishment which, strictly speaking, he might have deserved. On the following day he again addressed himself to the governor general, supplicating him to use the power with which that high functionary is invested in his behalf, in order to stay all further proceedings. The governor general having decided that justice must take its course, the process took place. The accused having at first been entered in the prison-books of the town of Batavia, they were a few days after conveyed to the military and civil prison of Wettenden—that of Batavia being in fact a locality but little suitable.

On the 25th of February the court of justice issued the decree, a copy of which is herewith enclosed. Among the facts acknowledged as indisputable and sufficiently proved according to law, the court admits that Mr. Gibson, in going to Palembang, had no settled plan; that he made the acquaintance there of several natives, and that he took a person named Moentjak into his service; that he has sought to procure a chart of the river *de Moussi*; that he caused a letter to be written on board his vessel by Kiagoos Lanang, in the Malay language, to the Sultan of Djambi, a vassal of the government of the Netherlands; that he has affixed his signature to said letter, and sealed it with his own seal, and that he caused it to be directed to said Sultan of Djambi; that Mr. Gibson caused a canoe to be hired under a false pretext; that he sent out his mate, Graham, in said boat, in company with another sailor of the "Flirt," his servant, Abdul Rachman, and Moentjak, to make a survey of the river *de Moussi*, and to convey the aforesaid let-

ter to the Sultan of Djambi; that said vessel was seized on her way up the river and brought back to Palembang; that the letter in question was found hidden in one of Mr. Graham's stockings; that said letter was opened and read, (a translation of the same into the Dutch language is inserted in the decree of the court of justice;) that Mr. Gibson was fully acquainted with the contents of said letter; and that, with the exception of the form in which it was written, said contents had been dictated by him to the aforesaid Kiagoos Lanang.

Nevertheless, the court of justice has decided that these facts do not constitute either a crime or an offence punishable according to the existing laws of the colonies; and said court has therefore acquitted the accused, decreeing, however, that they should continue in prison until the process had been revised.

Conformably with the provisions of the 282d article of the law regulating legal proceedings, which directs that all definite judgments of the courts of justice in the island of Java shall be submitted for revision to the high court of justice of the Netherland Indies, the latter tribunal was apprized of the matter.

In its decree of May 3, 1853, a copy of which is likewise appended to this, said court begins according to law; and considering that the letter written to the Sultan of Djambi, which represents the welfare of the Malays as incompatible with the Dutch government, as also with submission to said government, and that said letter seeks to inspire the Sultan with confidence relative to the assistance which the American government in general, and more especially Mr. Gibson, would be in a condition and be willing to render him, by means of vessels, arms, and ammunition of war to be sent, shows in the clearest manner an intention on the part of the accused to induce the aforesaid prince to rebel against the Netherland government, and to join them in exterminating all the Netherlanders established in the Territory of Palembang; considering, moreover, that it has been legally and definitively proved that they have conspired for the purpose of carrying out a scheme tending to the subversion of authority at Palembang, and that they have worked of one accord to induce the Sultan of Djambi to accede to their projects, and that circumstances wholly independent of the will of the accused have alone prevented the letter in question, written with the aforesaid intention, from being delivered to said prince; considering, in short, that these facts constitute the crime of high treason, and that they are punishable according to the laws in force, annuls the decision of the court of justice of Batavia, and condemns the accused.

I flatter myself, sir, that the foregoing concise statement, and especially the contents of the documents hereto annexed, will convince you, in the first instance, that Mr. Gibson's conduct at Palembang has been not only imprudent and thoughtless, but wicked and criminal; that if the plot which he was hatching had not been discovered and defeated in time, it might have been attended by the most serious consequences, especially as at that period the government of the Netherlands was at war with some of the Sumatra tribes, neighbors of Djambi; that the natives of this island are very irritable and very warlike, and that the

letters written to the Sultan of Djambi aimed at nothing less than to excite that prince, a vassal of said government, to rebellion, by promising him effective aid.

In the second place, that the arrest of Mr. Gibson was legal, and that the decree of February 21, 1852, directing the accused to be set free, was occasioned by a simple want of formality as to the mode of laying the proceedings before the competent authority at Batavia; that new proceedings in due form having been instituted against them, justice took its ordinary and regular course; and that having been acquitted by the court of justice at Batavia, Mr. Gibson was condemned by the high court of justice charged with the revision of the trial. It may not be superfluous, sir, to remark on this occasion, that the judicial authorities of Java deservedly enjoy a reputation for integrity and independence, which should protect them against the insinuations of Mr. Gibson, whose disloyal and hostile conduct towards the Netherlands cannot assuredly meet the approbation of the government of the United States of America.

Finally, with regard to the accusation of having hauled down the flag of the American ship "Flirt" in an insulting manner, brought by Mr. Gibson against the naval officer Nicolson, I shall merely remark, for the present, that it appears to me very improbable. No trace of such fact has been found in the minutes of the trial. At all events, the governor general of Batavia has been invited to institute a particular investigation into the matter, the result of which I will communicate to you hereafter. I reserve myself likewise to complete the explanations upon secondary points mentioned in the documents, a copy of which accompanies my present reply, in so far as the subsequent reports of the aforesaid high functionary may call for the same.

In the mean time I have the honor, sir, to renew, &c., &c.

VAN HALL.

M. BELMONT,

Chargé d'Affaires of the U. S. of America.

No. 1.—*Procès Verbal.*

This day, the 5th of February, 1852, I, the undersigned, F. J. P. Storm Van S'Gravesande, assistant resident magistrate at Palembang, according to the order received from the resident at Palembang, accompanied by Mr. L. Nicolson, lieutenant in the navy, of the 1st class, commander of H. M. advice brig *Pylades*, stationed in the roads of Palembang, and by Mr. Fischer, master of the port at Palembang, went on board of the North American schooner "Flirt," lying in the roads of Palembang.

Addressing myself to the captain of the schooner, W. M. Gibson, I notified him that the mate, C. M. Graham, belonging to his vessel, had been put in prison this day, for having tried in a clandestine manner to penetrate into the interior of this country, and to deliver a letter

to the Sultan of Djambi, a subject of the Dutch East India government; which letter signed by him, the captain, contained an instigation to the Sultan of Djambi to make an insurrection against the Dutch authority, with the assurance that he, the captain, would come in aid of the Sultan; and the question was put to him, whether he acknowledged having sent the letter?

At first the captain answered that he required some delay, to write and give a due explanation of his conduct to the resident magistrate. Thereupon the captain was informed that time to write to the resident magistrate would be allowed him, but that he, the captain, was again asked if the mate above mentioned had been sent to Djambi by his order, and was provided by him with the said letter. Captain Gibson answered, that it was precisely on this point that he wished to give explanations to the magistrate; that he neither could nor would deny having sent the letter to the Sultan of Djambi, but that in doing so his intention had not been at all to prejudice the Dutch government; that he knew the State of Djambi to be subject to Palembang; that he had always felt an inclination or vocation to put himself into contact with the indigenous nations; that of late several of his countrymen had done so, yet without the slightest intention of wronging established governments, but that most often a sympathy for weak nations was his and their motives; that, moreover, he intended giving a written explanation of his conduct to the resident magistrate.

I then informed him that his proceedings were contrary to the laws of these colonies, and that in consequence I arrested him; and I invited him, as he was to be put in prison on shore, to take as much of his money, clothes, and papers with him as he thought proper. The captain did so. At my suggestion everything he thought he would not require, and everything of any value, was locked up by him in a closet and in a drawer in the cabin, and both these places were sealed up by me, with the official seal of Palembang; and on my invitation to put also my own seal upon them, the captain declared that he could not find his seal, it having been put probably among the things he wanted to take with him ashore; moreover, all the keys were left in his possession.

I asked him, instantly, whether he was leaving money aboard; on which he answered negatively. Then I asked Captain Gibson whether he knew anybody he trusted, and who could take care of the cabin, and the things which were in it. He replied, that one man of his crew, named Joachin Antony, had his full trust; and so this man was charged by him to take care of the things which were to be left behind. I invited him to cause to be delivered to me the trunks and books of his mate Graham, who asked for them. In consequence, a wooden chest and a trunk of leather were brought on deck, neither of them being locked. After which, I took Captain Gibson and his things to the fortress of Palembang, where he was imprisoned in a proper room, his clothes and papers being left with him at his own disposal. On board the "Flirt" were left the above mentioned Joachin Antony and the carpenter, Joe Manuel Taxeira, the other men of the crew having been transported on board his Majesty's advice brig *Pylades*; and,

moreover, a guard from the ship-of-war was placed on board of the schooner.

PALEMBANG, on the above mentioned date.

The Assistant Resident Magistrate of Palembang,

T. J. P. STORM VAN S'GRAVESANDE.

The Commander of his Majesty's advice-brig Pylades,

L. NICOLSON.

The Port Master of Palembang,

D. FISCHER.

No. 2.—*Procès Verbal.*

On this day, the 5th of February, 1852, I, the undersigned, resident of Palembang, C. A. de Brauw, in the presence of the lieutenant of the navy, 1st class, Nicolson, commander of his Majesty's advice-brig Pylades, of the assistant resident and magistrate of Palembang, F. J. P. Storm Van S'Gravesande, and of the assistant for the police at Palembang, Rarta Neyara, proceeded to open the letter destined for the Sultan of Djambi, and which letter has been found upon the mate of the American schooner "Flirt," mentioned in the first "procès verbal."

This letter, acknowledged by all of us to be the same that has been found upon the mate above mentioned, was enclosed in two loose envelopes of yellow paper, moreover duly folded and sealed with a seal marked "G. S." The address was written in Malay, and was to the Sultan of Djambi.

Having opened the letter, it proved to be a document written in Malay, and of the following contents :

"Many greetings and compliments from me, Captain Walter, living in America, are transmitted, through the favor of Heaven, to the Lord Sultan ruling in the State of Djambi.

"I inform you that my first officer, with three companions, will appear before you, Sultan, as it is my intention to put myself on terms of great friendship with you. I am able to give you, Sultan, assistance in any way you may desire, for the American government lacks neither powder nor balls, cannons or guns, &c. I am able to help and ameliorate the situation of the Malays, for I do not like the Dutch. You, Sultan, shall be able to give to the Malays all through the country good and wholesome laws. You will be able to unite with me. I wish also to know the route from Djambi to Palembang, and what the distance is. I can give such assistance as to improve everything. I wish all the Malays to be governed as they were in former times. In one month's time I can be at the mouth of the Djambi river. The Sultan can concert with my officer what will be the best course, for the American government has no want of steamboats and ships of war; they have many of both. You, Sultan, need not be afraid. I will bring into order all the countries of Djambi and of Palembang. If possible, all the

Dutch must be reduced. In a few days I will be by you, and take possession of this State.

“WALTER M. GIBSON.”

Alongside of the signature there is a seal in red wax with the initials “G. S.” Below there is, in Arabian characters, “WALTER ANAK GIBSON.” Below it, in European characters, “*Commander of the American Schooner Flirt.*” At the end, in Arabian characters, “At Palembang, the 4th day of the month of February, 1852.”

Ultimately we verified the original letter, by putting our signature in the interior of it, and we annexed it to the present.

PALEMBANG, on the above mentioned date.

The Resident of Palembang,

C. A. DE BRAUW.

The Commander of the advice-brig Pylades,

E. NICOLSON.

The Assistant Resident Magistrate of Palembang,

F. J. P. STORM VAN S'GRAVESANDE.

The Assistant for the Police,

(Signed in Arabic.)

No. 3.

IN THE KING'S NAME, THE COUNCIL OF JUSTICE AT BATAVIA, ASSEMBLED IN COURT.

Pronouncing sentence upon the requisition of the officer of justice, dated 20th February, 1852, concluding in it the confirmation of the orders for the provisional detention of Walter Murray Gibson, Charles Murray Graham, Orrisson Chaffe, James Ivery, José Eduard Castillo, Henry Jones, Manoel Antonio de Sylva, Antonio Mariana Piero, Joaquin Antonio, and Juan Manuel Taxeira—the first captain, the second mate, and the others sailors of the North American schooner “*Flirt*,” who are suspected of having tried to instigate the Sultan of Djambi against the government of Dutch India—having seen the documents concerning it:

Considering that the deeds imputed to the persons provisionally in detention in consequence of the mandates of the officer of justice, dated 15th and 20th February, 1852, are of a quite peculiar nature:

Considering that the resident of Palembang, as it appears, from the same motive, has not thought it proper to act in his quality as an assistant officer, but to be obliged, as a functionary invested with political authority, to take provisional measures, and to open a correspondence about the matter with the governor-general of India:

Considering that this opinion of the resident of Palembang is probably a result of the stipulation in the 24th article of the ordinance for government, in the first part of which it is said that the governor-general has the power to order the imprisonment of such persons as he

might judge to be dangerous to public tranquillity or safety, only giving an order similar to it, by a written document with his signature to it:

Considering, whatever may be of this matter, that this affair has not been managed by the ordinary course of law, but that, instead of the officer of justice, the governor-general has been applied to in this case:

Considering that it does not appear, however, that the governor-general should have charged any of the functionaries of the public ministry to give the ordinary consequence to this affair:

Considering that this particularity alone could be already a motive not to allow the confirmation of the orders for provisional detention by the officer, and which confirmation has been concluded by the above-mentioned requisition:

Considering that even if the officer of justice had acted, in this case, upon an order duly given to him, or in his quality of a judicial functionary in consequence of the charge against the persons aforementioned, nevertheless there would have been no motive to despatch orders for provisional detention, as at present has been the case:

Considering that although the officers of justice are entitled by law to give orders for provisional detention in the case of discovery in the very act, it is natural, however, that such orders are to be given on the very moment of discovery or immediately after it, for no others are invested with the faculty of giving such orders but the functionaries of the public ministry and the officers of justice, that they may take the necessary measures; there were peculiar circumstances to prevent the judicial authority from taking notice of the matter immediately:

Considering, also, that article 38 of the ordinance for penalty prescribes that the inquiry in the case of discovery in the very act, transferred upon the officers of justice, is to be effected in all its extent by the assistant officers, every time when such an inquiry must take place out of the residence in which the council of justice is established:

Considering, in giving attention to the last-mentioned article, and to all the present ones, that in this case the officer of justice could have asked the confirmation upon orders for provisional detention given by the resident of Palembang, and if these orders had been given by him in his quality of assistant officer, but never upon orders of the kind given by the officer of justice himself.

Considering, thus, that at all events, for the four last-mentioned motives, the asked for confirmation must be refused: having considered the article 27 and others, to 40 inclusive, of the penalty code to the above-mentioned article of the code ruling the affairs of government, and to article 56 of the judiciary organization:—refuse the confirmation asked for by the officer of justice, upon the orders for provisional detention given the 15th and 20th February, 1852, against the persons of Walter Murray Gibson, Charles Murray Graham, Orrisson Chaffe, James Ivery, Jose Eduard Castillo, Henry Jones, Manoel Antonio de Sylva, Antonio Mariana Piero, Joaquin Antonio, and Juan Manuel Taxeira—the first being captain, the second mate, and the others sailors of the North American schooner “Flirt.”

Willem Hendrick du Clony, President; Pieter Frans Bosch, Mr.

Pieter Thomas Van Braam, van son, and Mr. Francis Henri Ernest Schusler, members; in presence of Mr. Frederick Bernardus Van Lecumen, second substitute recorder.

W. H. DU CLONY.

P. F. BOSCH.

P. F. VAN BRAAM, VAN SON.

F. H. E. SCHUSLER.

F. B. VAN LECUMEN.

SATURDAY, *February* 21, 1852.

No. 5.

IN THE NAME OF THE KING.

The Council of Justice at Batavia, pronouncing sentence in cases of delinquency in the suit of—

The officer of justice of the Council of Justice, official, and Walter Murray Gibson, aged twenty-nine years, born at Courtlon, county of Northumberland, Kingdom of Great Britain, having last been living at Pendleton, in South Carolina, in the United States of North America, captain and owner of the schooner Flirt, navigating under American colors, and Charles Murray Graham, aged twenty-six years, born at Dunckel, having last been living near Edinburgh, in Scotland, first mate on board of the said vessel, both in custody at present in the civil and military prison at Weltevreden, near Batavia, defendants to the charge of delinquency.

Having seen the judgment of the high court of justice of Dutch India (first chamber) of the 30th of December, 1852, ordering the prosecution of the defendants above mentioned; having seen the act of accusation drawn up in consequence of the judgment; having heard the debates in the public session; having, moreover, heard the officer of justice, in his delivered written requisition, demand that both defendants shall be declared guilty of the crime of high treason, and condemned, therefore, to a confinement in prison during a space of twelve years' time, preceded by public exposition under the gallows, and followed by eternal banishment from Dutch India, with the clause that they will be unable to be clothed with any dignity, charge, post, or office whatever; and condemning the defendants, moreover, to the costs of the lawsuit, and ordering that the articles which have served as pieces of conviction shall be restored to those who are entitled to them; having heard what has been alleged by or for the defendants, and by the legal assistants of the defendants in their behalf:

Considering that, as well by the ship papers of the schooner, the Flirt, navigating under North American colors, and which papers have been produced in this lawsuit, as by the declarations given by the defendants themselves, it is legally and evidently proved that the first-named defendant as captain, and the second as first mate, of the said vessel, manned in all by a crew of ten hands, have set sail with it,

in the last part of the year 1851, from Pernambuco, in South America; that in first days of the month of January, 1852, they arrived at Mintok, on the island of Banca, where they remained until the thirteenth of the same month: considering that, by the declarations sworn to by the witnesses Schaap, Kamp, and Valberg, as well as by the certificate delivered to the said vessel by the customs office, and by the avowal of the first-named defendant, it is likewise legally and evidently proved that both the defendants, with their vessel, left the roads of Mintok on the 13th of January, 1852, setting sail for Palembang, in Singapore, to which place the schooner was bound; the first-named defendant taking from the former place into his service a native, by name Abdul Rachman, called, also, Badoc Rechman: considering also, by the depositions under oath of the witnesses Valberg, Fischer, and Storm Van S'Gravesande, who, having been sworn, were examined during the session, and equally by the declaration confirmed by an oath of the witness De Brauw, who has been examined by the judge commissary charged with the instruction of penal cases, it is legally and clearly proved that the defendants, with the schooner Flirt, arrived on the 17th of January at Palembang; that further, by the said depositions, and equally by those of the above-mentioned sworn witnesses Schaap and Kamp, it is legally and evidently proved that the defendant, Gibson, had no determined aim to his voyage; having always asserted to have undertaken the voyage for curiosity's sake, and for the sake of visiting foreign parts:

Considering that the allegations made in his defence by the defendant himself, together with the depositions delivered in the session by the sworn witnesses, Sapieden, Kiagoos Lanang, and others, have proved legally and evidently that the defendant Gibson has conversed with Abdul Rachman, Moentjak, and several other persons belonging to the indigenous population at Palembang, and that even he has engaged there in his service the native Moentjak; that the depositions of the other sworn witnesses examined in the court, as well as those of the sworn witnesses De Brauw, examined by the judge commissary, have proved lawfully and evidently that the defendant Gibson was in want of money, even to a point that he has been forced at Palembang to sell two small anchors, a piece of cable chain, and one of his boats; that the deposition of the sworn witnesses Naumann and Van Heyst, examined in the session, and the afore-mentioned depositions of the witness De Brauw, and those of the sworn witness Nicolson, examined by the judge commissary, together with the allegations of defendant Gibson himself, and compared with the correspondence between the defendant and the witness Naumann, have proved legally and evidently that the defendant Gibson has tried to procure himself a chart of the river Moessie, promising a gun in reward for it that was worth twenty or thirty Spanish dollars, and that he attached a particular value to the possession of that chart; it not having been proved clearly and distinctly, however, which chart was actually required by him of the witness Naumann; that the proof, however, of the defendant's desire to obtain a chart of the river Moessie, is made yet more evident by the allegation of the defendant, that he had meant only a chart of the river

Palembang up to its mouth, with the aid of which he might be able to get along and reach the sea without the assistance of a pilot; that at Palembang, however, a pilot would have to be procured at a price comparatively much less than the gun he offered for a copy of a chart; an economy of the kind—taken together with the acknowledged want of money of the defendant Gibson, and with his own deposition, that others had offered him a higher price for the same weapon than the offer from the witness Naumann—ought to have been far preferable to the defendant Gibson, unless from a more particular motive—and such is the supposition—he desired to get possession of the said chart; that the depositions of the above-mentioned witnesses De Brauw, Storm Van S'Gravesande, Nicolson, Fischer, and of the witnesses examined under oath in the session, Kiagoos Lanang, Moentjak, Abdul or Badoc Rachman, the demang Kerta Negara, and some others; as well as the documents sworn to and produced in this law-suit, viz: that concerning the taking up of the defendant, and that of the competent judging persons, have proved lawfully and evidently that the defendant Gibson, in the evening of the 4th February, 1852, on board his vessel, the "Flirt," caused the witness Kiagoos Lanang to write a letter, in Malay character, to the Sultan of Djambi—who is a vassal of the Netherlands, according to the treaty between the said Sultan and the Dutch East India government, and which treaty is produced in this lawsuit—and that he, Gibson, after having signed the letter with the words Walter M. Gibson, and having added the words, commander of the American schooner "Flirt," sealed it with wax, with a seal bearing the initials G. S., and then he caused the witness Kiagoos Lanang to write on the envelope, in Malay, the address to the Sultan of Djambi; that on the same evening, the defendant Gibson ordered his servant, Abdul or Badoc Rachman, and the native Moentjak, who had been taken on board by him (Gibson) that very day, to bring a row-boat or tambangan from the shore and to bring it on board; all this, however, under a false pretext as to the purpose for which he wanted it, and the order was executed; that by Gibson's order, his mate Graham and one man of the crew of the schooner Orisson Chaffe, together with Abdul Rachman and Moentjak, put themselves into the row-boat and left the Flirt at about 4 o'clock in the morning, and rowed up the river Moessie, with the intention of going to Djambi for the purpose of delivering to the Sultan of Djambi the letter written by the witness Kiagoos Lanang, and addressed to the Sultan; this letter having been given to the defendant Graham by the defendant Gibson; that the defendant Graham, previous to leaving the Flirt, procured for himself that evening a gun and a pistol, putting these things together with several other articles wanted for the voyage, viz: a pair of compasses, an axe, a kettle, gunpowder and balls, and some other things, and also some victuals, (all these articles, found with him at the time he was taken up, have been produced in the suit as objects towards his conviction;) that the defendant Graham was dressed in white, without either coat or jacket, with a white turban on his head, and carrying the letter aforementioned in a pocket-book, which has been produced in this suit; that Graham, after having landed at a place of the name of Soera, on the bank of the river, and having stopped there to buy some rice and to

make a meal, rowed further up the river, up to Poelockarta; that there, at some distance from Palembang, the men of the boat having refused to row any further, the defendant took all his things, against the will of the men of the tambangan, into the high country; he found a boat there in which he and his men took seats, the tambangan returning to Palembang; that soon after, some policemen from Palembang, who had been ordered by the resident to hasten in pursuit of Graham, got on the spot in their boats, the witnesses Moentjak, Abdul or Badoc Rachman, having before their departure informed the police of the occurrence on the Flirt, and of the intended trip of Graham; and the defendant, after first having shown an intention to resist, which intention he, however, subsequently gave up, followed the policemen with his boat, which, without his perceiving it, had been brought into another direction; and later, when in sight of the steeple of Palembang, he left his own boat and entered the one of the indigenous chief of the police, having, however, taken the letter out of his pocket-book, and put it into his stocking under his foot; that when the defendant Graham was brought before the resident De Brauw, and ordered to take off his shoes and stockings, the said letter was found in the stocking of the right foot. That at first the defendant Graham refused to take off his stockings, and he did not obey until he had been warned that else some servants of the police would be ordered to take them off; that then the defendant was put into custody, after which the letter was opened and verified by the witness De Brauw, in the presence of the witnesses Nicolson, Storm Van S'Gravesande, Fischer, and others.

That the said letter, which has been produced as an article of conviction, has been translated into Dutch by the witness Storm Van S'Gravesande, at Palembang, and subsequently by the sworn local translator for the Malay language, W. F. G. Pool, at Batavia, proved to be of the following contents:

"This letter, accompanied by many salutations and greetings from me, Captain Walter, living in America, may be forwarded, by the favor of the Lord, to the hands of the Sultan ruling in Djambi. Further, I truly inform you, that my first officer and three of his men will appear before you, Sultan, as I am desirous of putting myself on terms of intimacy with you, Sultan. I am able to provide you all you may require, for the American government has no want of gunpowder, balls, cannons, and guns. I am able to help and do good to the Malays, because I am not partial to the Dutch, of which he, Sultan, can give the assurance to all the Malays. I should like also to know the way from Djambi to Palembang, and how much time that voyage will take. I can help to make everything bright, and I wish that the Malays may be governed as in former times.

"Within a month I can be at the mouth of the Djambi river; with my officer, Sultan, you may concert what shall be the best, for the American government has no want of steamboats and ships of war; of both there are many, and so, Sultan, you need give no heed to that; all the high countries of Djambi and of Palembang shall be brought into good order, and if possible I will exterminate all the Dutch. Within a few days I shall be with you. I will then be able to take

possession of this State. I myself, and all my officers, send you a great many salutations, Sultan."

That on account of the contents of this letter, the defendant, Gibson, who had already been notified by order of the resident of Palembang, on the same morning (6th February, 1852) of the seizure of his vessel; and who had been taken prisoner by the witness, Storm Van S'Gravesande, in his capacity as magistrate and on the order of the resident of Palembang, in presence of the witnesses Nicolson and Fischer, on which occasion the contents of the letter were made known to him.

That the defendant, Gibson, when the seizure of the vessel was first made known to him, said that he desired to address himself to the resident, in order to give due explanation concerning what had taken place, and to complain of the treatment he had undergone; that however, he did not do so, although the witness, Nicolson, offered to accompany him. That at first he accepted the offer, but subsequently refused remaining on his vessel, for the cause that, during the conversation between himself and Nicolson, he was informed that his letter to the Sultan of Djambi had been the cause of his arrest.

That according to the deposition of the witnesses, Storm Van S'Gravesande and Nicolson, as compared to the "procès verbal" made by the first-named witness, in presence of the second and of the witness Fischer, and which procès verbal has been explained more in full during the session by the witness Storm Van S'Gravesande, the defendant did not expressly avow at that moment that he had ordered the said letter to be written to the Sultan of Djambi, and that its contents were known to him, but that at that time he neither denied the letter having emanated from him, nor made any allusion from which could result the idea that the letter dictated to him by Kiagoos Lanang for the Sultan of Djambi could have been different from the one given by him to the mate on whom it was found.

Considering what precedes, and the depositions delivered on this subject by the witnesses Storm Van S'Gravesande, Nicolson, and De Brauw, whose depositions have been sworn to, the council has legally obtained the conviction, that at the moment of the seizure of the defendant, Gibson, the contents of the said letter were perfectly known to him. That also, the depositions of the witnesses, Kiagoos Lanang, Moentjak, Abdul or Badoc Rachman, De Brauw, Storm Van S'Gravesande, Nicolson, and others, have legally and clearly proved that the expressions contained in said letter, separately from every consideration in regard to the more or less usual form of the head and end of said letter, have been dictated by the defendant, Gibson, to the witness Kiagoos Lanang, to be inserted in the letter.

That this dictation took place in part by the intervention of Abdul or Badoc Rachman, Moentjak, and the second defendant, Graham; and as for the rest, by the aid of a dictionary, and that the contents were equally known to the defendant, Graham; that this is the more ascertained by the defendant Gibson's pretending of only having had the intention of causing a letter of introduction to be written for the second defendant to the Sultan of Djambi, in case Graham had been able to accomplish the journey, and by the allegation made sub-

sequently, that he, Gibson, signed the letter in a state of nervous excitement.

That further, this opinion is strengthened by the suggestions of Gibson, that it might be possible the seized letter had been signed by another person; he, the defendant, being at that time, as he asserts, but little acquainted with the Malay language; and further, by the clandestine departure from the roads of Palembang effected by the second defendant, Graham, without having asked for the permission of the government; by his equipment for the voyage to Djambi, and by his intended resistance against the police, when reached; by his concealment of the letter in his stocking, before transferring himself from his boat to that of the chief of the police of Palembang; by his denial, at first, of knowing anything of a letter; by his refusal to take off his stockings; by the denial of Gibson that his mate (Graham) had gone to Djambi with a letter; by the conduct of both the defendants at the moment of their being seized; and subsequently by their conversations, especially with regard to the letter; and by the writing of a note, produced in this suit, from the defendant, Graham, while in prison, to the defendant Gibson, in which note he, Graham, communicates, among other things, to his co-defendant, that the oft-mentioned letter has been seized, and engages him to leave Palembang, the sooner the better.

Considering, finally, in reflecting upon the manner in which the second defendant has undertaken the journey to Djambi; upon the means he could dispose of; upon the great distance he had to make; upon the season in which the journey was undertaken; upon the dangers connected with such a voyage; upon the possibility of the defendant Graham being seized, as he was obliged to avoid all the occupied posts, or to try and pass them furtively, not being provided with a passport; and all this taken together, and compared with the deposition delivered upon this last point by the witness, Storm Van S'Gravesande, it can be considered as sufficiently clear, that the performance of the journey to Djambi, undertaken by the defendant Graham, would have been, if not impossible, at least connected with great obstacles. Considering, in a judicial view, that the above-mentioned proceedings of the defendants are neither criminal nor delinquent; considering, however, that the demander (as *ex officio*) has qualified these proceedings as high treason, because, by these acts, the defendants have endeavored to instigate the Sultan of Djambi, a vassal of the Netherlands, to rise in armed revolt against government, and to break, by word and violent act, all relations existing between him and the Dutch government, and to withdraw from its authority, being promised by the defendant aid and assistance; the execution of which intention, however, has been prevented by circumstances independent of the defendants, which crime is punishable by chastisement and infamy. Considering that in consequence of article 1 of the prescriptions of the regulation of some points of the penal legislation, which demand an immediate provision; as also by article 2 of the prescriptions for establishing the new law, and for the transition to it, it has been ruled, that the penal law actually in vigor in Dutch India shall, for the present, continue to

be so for all Europeans, and all persons on the same footing as they are :

Considering that this maintenance aims at a continued application of the prescriptions of the ancient Dutch and Roman penal code :

Considering that the ancient Dutch law, which in all cases is to be applied in the first instance as the penal law of the country, does not contain any particular provision with regard to the crime of high treason, it will be necessary, of course, to follow in this instance the Roman law :

Considering that the Roman law, viz : the "*Lex prima pandectorum ad legem Julianam Magestatis*," contains that the crime of high treason is committed by those who with a hostile intention endanger the independence and safety of the State ; the said law containing, moreover, an enumeration of different cases in which the crime is committed ; and the crime itself, according to the Roman law, being punished with the pain of death, confiscation of possession, &c. : Considering that the demander (ex officio) has asserted the guilt of the defendants on account of the afore-mentioned legally proved facts, although the performance of their plan has failed owing to circumstances not under their control, viz : by the seizure of the defendant Graham, while the afore-mentioned letter was yet in his possession : Considering that in the application of the penal law, one must adopt, as a rule, that the intention of committing a crime is not punishable if not brought to an issue by some initiatory act : Considering that the Roman law contains very few prescriptions for the intention of committing crime, and that, on the other hand, the *Lex 18 Pandectorum de poenis*, and the *Lex 225 de verborum significatione*, prescribe distinctly, that the mere intention is not punishable unless followed by some outward act :

Considering that the intention of high treason cannot be looked upon as within the reach of the penal law before it has had an actual commencement :

Considering that the conduct of the defendant Gibson, to wit : having ordered a letter of the above-mentioned contents to be written to the Sultan of Djambi, a vassal of the Netherlands, and this of his free will ; and the conduct of the second defendant, to wit : of having been willing, although aware of the contents of the letter, to deliver it into the hands of the Sultan of Djambi, (the intention, however, had it really been carried into execution, would have really constituted the crime of high treason,) could only then be considered as being a beginning of performance of the intention, if the letter had reached its destination, viz : the Sultan of Djambi, whatever might have been the consequence :

Considering that the proceedings of the defendants are nothing else but preparatory measures to a fixed plan, such measures not being a beginning of performance, and consequently not being threatened with punishment :

Considering that if inclining in this case to another manner of interpretation, one would come to the conclusion that the defendants, Gibson and Graham, would have been guilty of the crime of high treason ; even then, when immediately after the letter had been written and signed by the first-named defendant, and whilst lying yet on the table

in the cabin of his vessel, the police had seized it, and if the second defendant had avowed that he was on the point of departure with that letter for Djambi, the absurdity of such a conclusion is so evident that the council supposes it to be useless to spend more time over it :

Considering that the justness of the council's opinion, that the proceedings imputed to the defendants are neither criminal nor delinquent, is fortified and confirmed by the contents of the prescriptions of the penal law actually in vigor in the Netherlands, which law, for want of a clear prescription on this point in the Roman law, can be safely adopted as a consultative law for the present case :

Having seen the articles 166, 169, and 411, of the ordinance on the penal administration of the courts of justice of Java, &c. :

Pronouncing sentence on the requisition of the officer of justice of the council, acquit the defendants, Walter Murray Gibson and Charles Murray Graham, mentioned in the head of the present, of every further lawsuit, on account of the facts imputed to them by the act of accusation : Orders that the objects which have served as documents of conviction shall be restored to their owners : Resolves that the costs of the lawsuit shall come to the charge of the State.

Thus pronounced at Batavia, on Friday, the 25th of February, of the year 1853, by Mr. William Hendrick du Clow, president ; Pieter Frans Bosch, Mr. Frans Frederick Lodewyk, Ulrich Last, and Mr. Jacob Carl Frederick Baron Van Hurdt, members ; and pronounced in the public session of Wednesday, the 2d of March, in presence of the same gentlemen of the office of justice at the council, Mr. Karel Hugo Nolthenius, and the recorder of the council Toukheer, Mr. Joan Graafland.

W. H. DU CLOW.

P. F. BOSCH.

F. LAST.

VAN HURDT.

The recorder—

J. GRAAFLAND.

Certified copy :

FLEUR,

Second Assistant Recorder.

DE WAL,

Assistant Secretary General.

No. 6.

IN THE NAME OF THE KING—A SENTENCE.

THE HIGH COURT OF NETHERLAND INDIES—FIRST CHAMBER.

Having seen the documents of the judicial inquiry of the accused :

1st. Walter Murray Gibson, 29 years old, born at Court Law, in the county of Northumberland, in the Kingdom of Great Britain, having recently resided at Pendleton, in South Carolina, United States of

North America, master and owner of the schooner the *Flirt*, under American colors; and, 2d, Charles Murray Graham, 26 years old, born at Dunckel, having recently resided near Edinburgh, in Scotland, first mate on board of said schooner the *Flirt*, both detained in the civil and military prison at Wilteveden, near Batavia, accused of high treason; and the sentence pronounced in the said affair by the council of justice at Batavia, the 25th of February, 1853, by which both these accused persons are discharged from all proceedings on account of all the facts imputed to them in the act of impeachment, with order that the accused, till the affair be revised, shall remain in prison; with order that the objects having served as pieces of conviction shall be returned to those being entitled to them, and ordering, moreover, that the expenses of the suit shall be imputed to the country:

Having seen the written conclusions of the attorney general to the high court of Netherlands India, J. O. Wynmalen, of the 26th of March, 1853, No. 105, bearing that the high court, rescinding the sentence pronounced against both the accused parties by the council of justice, will declare them guilty of high treason, and consequently condemn them to the pain of death, and also to the expenses of the suit, with order that the documents having served as pieces towards conviction shall be returned to those entitled to them:

Having seen, moreover, the complaints presented to this court by the officer of justice to the council of justice at Batavia, and by the counsellor of the first accused party, the advocate and attorney, F. A. Mees:

Having heard the report of the counsellor, D. A. Junius Van Henart:

Considering that in the sentence pronounced by the council of justice at Batavia, on the legal proofs therein recited, is admitted as justly; that the accused, the first as master, the second as first mate, of the schooner the *Flirt*, navigating under American colors, after having remained for several days of the month of January, 1852, in the roads of Mintok, in the island of Banca, arrived on the 17th of January, 1852, with that vessel at Palembang; that the accused party Gibson, while at that place, besides the servant Abdul or Badoc Rachman, whom he procured at Mintok, took into his service a certain Moentjak, and has had communications with several persons belonging to the population of Palembang; that on board of the said vessel, in the evening of the 4th February, 1852, at the order of the accused party Gibson, a letter was written in the Malay tongue by the witness Kiagoos Lanang, and addressed to the Sultan of Djambi, of which the following is a translation:

“That this letter, accompanied by many greetings and compliments from Captain Walter, residing in America, be conveyed by the sovereign lord to the hand of the Lord Sultan, who commands in the empire of Djambi.

“Moreover, I inform you truthfully, O Sultan, that my first officer and also three of his men will appear before your highness, with whom it is my desire to be on intimate terms.

“I am now able, Sultan, to help you in all you require, since the American government has no lack of powder, bullets, cannons, and guns. I can assist in making the Malay at his ease, for I am not par-

tial to the Dutch. Of this you may give the assurance to all the Malays, Sultan.

"I also wish to know the road from Djambi to Palembang, and in how much time that journey may be performed. I can assist in making everything bright, and it is my desire to see the Malay governed as in former times.

"Within a month I shall be able to be at the mouth of the Djambi river; with my officer you may consult, Sultan, concerning what is the most advisable; as the American government is not in want of steam vessels and men-of-war, of both of which there are plenty, it will not be necessary for you, Sultan, to trouble yourself about it; all the highlands of Djambi and those of Palembang shall be put in proper order, and if possible all the Dutch shall be exterminated; within a few days I will then come and take charge of that Empire.

"I and all my officers send many greetings to you, Sultan."

That in the composition of this letter the second accused party, Graham, has been concerned, and that he, as well as the accused party, Gibson, were perfectly acquainted with its contents; that the said letter, after having been signed by the first accused party with the words Walter M. Gibson, commander of the American schooner the "Flirt," was delivered to the accused to be presented, in person, to the Sultan of Djambi; that the second accused party, in a low vessel or *tambangan*, furnished for that purpose by the first party, accompanied by the servants Abdul Rachman and Moentjak, and also by a schooner provided with some arms and various necessities for travelling, dressed in white, without jacket or coat, with a white turban on his head, proceeded, at four o'clock on the morning of the 5th of February, 1852, up the river Moessie, of which the first accused party had in vain endeavored to procure a chart, with the intention to repair to Djambi; that, however, the accused, Graham, still the same day was prevented from continuing this expedition, which, though subjected to great difficulties, yet is not deemed impracticable, owing to his being overtaken at some distance from Palembang, being near Poelo Karta, by some officers of the police, and the said letter was found hidden in the stocking of the right foot. Considering that in the treaty of peace and friendship, concluded December 5, 1834, between J. W. Boers, resident (governor) of Palembang, and as such commissary of the Netherland government for the regulation of the *Jambie* affairs, in the name and from the high government of the Netherland Indies on one side, and his Highness Mohammed Phaharredin, Sultan of Djambi, and also the Pangerang Katne Maita Ningrat Abdul Rachman, on the other side, and approved by resolution of April 20, 1835, No. 7, of which treaty an authenticated copy is with the *procès verbal*, the aforesaid native Princes have forever placed themselves, their descendants, and the Empire of Djambi, under the immediate protection and sovereignty of the Netherland government of the Indies, promising, at the same time, not to contract any relations of friendship with the enemies of this government:

Considering that the above-mentioned letter written to the Sultan of Djambi, by which the welfare of the Malay is represented as irreconcilable with the Netherlands authority, and with the respect of the same, and hope is given to the Sultan of obtaining the succor which

the American government in general, and the accused Gibson in particular, intend offering by the sending of ships, arms, and warlike stores, clearly indicates the intention of the accused to engage the aforesaid Prince to break from that authority and to unite with them in exterminating all the Hollanders resident in the Territory of Palembang :

Considering that it results legally and forcibly that the accused have mutually entered into an engagement to execute a plan intending the violent overthrow of the Netherland authority at Palembang, and that they have also been occupied with a measure making the Sultan of Djambi accede to this project, but that circumstances entirely independent of the accused parties have prevented them from putting the letter, according to their will and knowledge, into the hands of the Prince :

Considering that these facts, imputed to the accused in the act of accusation, have been wrongfully looked upon by the council of justice of Batavia, as not being punishable :

Considering that according to the penal code existing in this country, which conforms entirely to the sentences of Roman jurisprudence, every conspiracy between two or more persons against the State, with the hostile intention of attacking its authority, taking away part of its territory, suscitating civil war, changing its allies and friends into enemies, or exciting them to armed resistance or actual rebellion, is established a punishable crime :

Considering that such is still the more the case when a manifest action is performed in a project intending to arrive at the execution of the same, even when that action might still be in a distant connexion with the execution :

Considering that it is not material that the accused who have contrived the conspiracy should be subjects of the Netherlands territory, but sojourned only temporarily, as foreigners, in the territory of Palembang :

Considering, further, that according to article 25 of the general dispositions of legislation for the Dutch Indies, the penal code is declared binding for all those who reside in the Netherland Indies, and that article 32 of the same regulations inflicts punishment on every foreign or alien of the Netherland Indies, guilty of a crime by which the rest and security of the country is put into jeopardy :

Considering, also, that the Roman jurisprudence makes no difference between subjects and aliens :

Considering that those authors in the ancient Dutch jurisprudence who pretend that the crime *a perduellianis*, or the crime of high treason, can only be committed by subjects, are of opinion that the hostile actions by which that crime is established ought not to be tolerated with impunity in foreigners :

Considering that, by the Roman and the ancient Dutch jurisprudence, every conspiracy against the State is punished with death :

Considering, however, the circumstance, that the criminal intentions of the accused, wanting beforehand the assistance of the Sultan of Djambi, were still far from being executed and being opportunely frustrated, have not occasioned any actual prejudice to the State, and that there exist motives for the judge to consider the more liberal notions of the

penal code, now acknowledged to apply the punishment next that of death :

Seen LI and 4 D *ad Legem Juliani Majestatis*, (XLVIII 4,) L 5 C *ad Legem Juliani Majestatis* (IX 8) and art. 5 of the *Artikel brief*, or ordinance on military discipline of August 13, 1590. Groot Placant, book II, f. 171 :

Seen also art. 25 and 32 of the General Dispositions of Legislation for the Netherland Indies, art. 293 and 411—174 s. 7. Regulations on punishments, and art. 8, No. 2. Art. 17 and 18 of the dispositions for the regulation of some subjects of penal legislation, which require an immediate establishment :

Declares, that it annuls the sentence of the council of justice at Batavia pronounced against the accused February 25, 1853. Further, that Walter Murray Gibson and Charles Murray Graham above named are guilty of high treason; condemns them to the pain of imprisonment in a house of seclusion for the period of twelve successive years, preceded by half an hour's exhibition under the gallows, and followed by perpetual banishment out of the Netherland Indies; declares them forever unfit to occupy any dignity, post, office, and employment; condemns them to the payment of all the expenses of the lawsuit; orders that the articles having served as pieces of conviction shall be returned to those who are entitled to them.

Thus pronounced in the council chamber May 3, 1853, by us, president and counsellors of the above-named court.

C. HULTMON.

JUNIUS VAN HEMERT.

A. J. SWART.

ANTLING.

L. W. E. KEUCHENIUS.

Certificated as an exact copy. The Secretary General in function,
DE WAL.

Certified. The Recorder of the High Court of the Netherland Indies,

H. U. DU PERRON.

LEGATION OF THE U. S. AT THE HAGUE,

March 4, 1854.

SIR: I have the honor to acknowledge the receipt of your note of the 25th of last month, in reply to the reclamation I addressed to you, under date of 17th of October last, on the part of the government of the United States, for indemnity of serious losses and cruel treatment suffered at the hands of the Dutch authorities in the East Indies, by Mr. Walter M. Gibson, owner and captain of the American schooner *Flirt*.

By this note, and the facts presented in the accompanying documents, it is contended that Mr. Gibson is not entitled to any indemnity, and that the hardships to which he was subjected, and the injuries he has sustained, were the legitimate consequences of his own criminality.

I shall lose no time in bringing your communication, and these documents, to the knowledge of my government, and deem it proper to defer a more detailed reply until I shall be in possession of such further instructions as may be thought necessary, in view of the ground assumed by his Majesty's government. I must, however, be allowed preliminarily to direct your attention to several points in regard to the guilt of Mr. Gibson, which, in my opinion, lead to a conclusion materially different from that to which you seem to have arrived.

It still appears that the measures of the Dutch officials against Mr. Gibson were very high-handed and cruel, and nowhere in all the proceedings instigated in this case has been established, with any success, the charge of high treason against Netherlands India.

The principal evidence upon which Gibson was arrested, and subsequently convicted by the high court of Netherlands India, after having been fully acquitted by the court of Batavia, seems to lie in a letter dictated by him to a Malay servant, in the Malay language, which he (Gibson) did not understand at all, and which letter he pronounced then, and pronounces now, not to be the one handed by him to his mate Graham. That letter, according to his statement, was written on *blue* paper, while the one produced against him in court was on *white* paper. It was a mere ordinary communication, in the nature of a passport, intended only to facilitate the journey of the mate and peradventure to aid in obtaining for him a more hospitable reception. The utter improbability of such projects and plans as are put forth in the letter imputed to him ever entering into the mind of any man in the position and with the means of Gibson, confirms the credibility of his own account of that incident. Nothing in the antecedents of Mr. Gibson, nothing in the character of his small unarmed vessel, manned but by nine sailors, countenances the supposition that he had entertained the hostile and treasonable project laid at his door. Besides, is it at all likely that he would dictate a letter of the character of the one produced against him in court, to a man whom he had engaged only a few days previously at the house of Mr. de Vries, secretary of the assistant resident of Palembang? This would have been an act of temerity which no man in his senses can be supposed to have committed.

The fact of his amanuensis being a stranger and a native subject goes very far to corroborate Gibson's assertion, that in the letter which he actually dictated there was nothing to which the term treasonable could, in any sense, be justly applied. In truth, there is abundant reason to believe that it contained nothing beyond what is frankly stated in his recital, which I had the honor to communicate to you last October, viz: a kind of introduction, addressed to the Sultan of Djambi and other princes of the north of Sumatra, in favor of his mate Graham, stating the friendly regards of the writer as an individual, the skill and good character of the bearer, and the value of which his services might be to the native princes, without a single word hostile to the Dutch.

It must be observed, also, that the writer of this alleged treasonable letter, Kiagoos Lanang, and a discharged Malay servant, Bahdoo Rachman, with Mooncluva his comrade, are the men who, immediately after Graham's departure for the interior, denounce him and Gibson to the police, and procure their arrest. It is, therefore, evident that it was a

preconcerted plan of these three individuals to betray Gibson to the authorities; and, in order to give to their denunciation a sufficient value to secure for themselves an adequate reward, it is more than probable that they either wrote an entirely different letter from the one Gibson had dictated, and which difference the latter could not discover, from his utter ignorance of the Malay language; or that they managed to substitute, afterwards, another paper for the one which Gibson had actually signed. These men, whose character is manifest in the share they have taken in this whole affair, and who, besides, are known in Batavia as spies of the police, are the only witnesses relied upon to inculpate Gibson, as appears from the records of the several trials which took place.

Mr. Gibson may have infringed some local police regulations, in sending his mate to the interior of Sumatra by a route which required him to pass through one or more of the Dutch dependencies, without procuring for him the necessary passports; but no criminality can be charged to him for addressing a communication to the Sultan of Djambi. His vessel had been visited by natives of all ranks—some under the dominions of the Dutch, and others of independent tribes—and he had returned these visits, to many of the native chiefs, at their residences on the various branches of the Palembang river, without any objection having been made to such visits by the Dutch authorities. The treaty with the Sultan of Djambi, to which reference is made in the judgment of the high court of Netherlands India, (and of which, to my regret, there is no copy appended,) does not seem, as far as it is quoted by the court, to preclude a citizen or a subject of a friendly power from holding usual and ordinary intercourse with that personage. That treaty provides that the Sultan of Djambi, and his descendants, should not contract relations of friendship with the enemies of the Dutch government. As a citizen of a country which has always enjoyed the most amicable relations with Holland, Gibson was certainly not restricted by such a clause from even entering the dominions of the Sultan; much less does the treaty make it unlawful to write, or for that dignitary to receive, a letter from a private person, invoking good will and hospitality to a stranger.

Besides that, the idea of Gibson offering the active assistance of the United States, by the promise of their ships and military forces, has such a stamp of absurdity on its very face that it is difficult to realize how a high functionary, in the position of the governor general of India, should have consented to entertain such evidence coming from the source it did. Such testimony must be considered as the inventions of designing men, who sought the price of their treachery, or who had some private motive of revenge to satisfy.

Gibson must have acted upon his own authority, or he must have been looked upon as an authorized agent of my government. In the first case his proceedings would strike any observer as the harmless vagaries of a madman, while in the other an official holding the high and responsible position of his Majesty's governor general in the Netherland Indies could not be justified in entertaining for a moment the belief that the United States, the old and unwavering ally of Holland, could be a party to any such hostile demonstration against her possessions.

Yet upon so vague and absurd a charge an American citizen, sailing under American colors, was seized, contrary to the legal forms of the country; he was thrown into a loathsome cell amongst condemned native malefactors; he remained in prison for more than a year, when he was, after many vexatious delays, tried and fully acquitted by the court of justice of Batavia, on the 25th of February, 1853, according to the decisions you have communicated to me.

This date coincides with that given by Mr. Gibson; and, in accordance with his narrative, which, so far from being contradicted, is sustained by the official documents which you have transmitted, it appears that, before his last public trial, he had been acquitted by the competent tribunal at Batavia twice before. The first time was after a long preliminary investigation, during which Gibson appeared more than fifty times before a judge commissary and the public prosecutor, without the aid of counsel at any time. A report was finally made out by the prosecutor to the court of justice, in which it is elaborately set forth that he could find no foundation for the charge of high treason, and, in consequence, recommended the liberation of Gibson; and this recommendation was acquiesced in by the court of justice in a judgment of acquittal and discharge, dated 25th of August, 1852.

The second proceeding was in consequence of a new arrest by virtue of a decree of the supreme court of Netherlands India of 2d of September, 1852, ordering that the court of justice of Batavia should re-investigate the case. This court, which had been newly constituted by the change of judges and the appointment of another public prosecutor, again declared, by a verdict rendered on the 22d of December, 1853, that there were not sufficient grounds to found an indictment in order to bring Gibson to trial for the crime of high treason.

These facts, which I had the honor to communicate to you in my note of 17th of October last, are not impeached by the evidence you have furnished to me; and as the statements of Mr. Gibson as to his last acquittal coincide entirely with your note, I am reassured of their correctness.

Some stress is laid, in the proceedings against Gibson and Graham, upon the fact that the latter had secreted the letter he carried to the Sultan of Djambi in his stocking, and an inference of its treasonable character is drawn therefrom. You will, however, be pleased to observe that Graham carried the letter openly, in his portfolio, until after his arrest, which would certainly not have been the case had that letter contained any criminal plans against the Dutch authorities. It was only after he had been arrested, under circumstances which may very naturally have filled him with vague alarm and apprehensions, that he tried to secrete a document which might possibly tend to aggravate his situation. This circumstance does not, therefore, in any way strengthen the proof of actual guilt against Gibson.

In this state of the case, while I await the further instructions of my government, I must be permitted to observe that, in my judgment, thus far nothing has been shown to impair the claim of Mr. Gibson for a full indemnity for the losses he sustained by means of the extraordinary conduct of his Majesty's officers in India, and which I therefore again press very respectfully and urgently upon your consideration.

From your verbal communications I am assured that the mate, Graham, has been released from prison; but I regret not to find in your note any allusion to the cabin-boy, Antony Perez, and such others of the crew of the "Flirt" in regard to whom the attention of the government has been solicited, last October. These unfortunate persons, under the worst aspect of the case against Gibson and Graham, can only be regarded as innocent instruments in the projected invasion; they cannot be supposed to have participated in the plan which, if it ever existed, was frustrated before it came to life. Their innocence of any criminal intent need hardly be argued, and the imprisonment they have so long endured is an additional proof of the severity which has characterized the proceedings of the colonial officials in this affair, and which is so much at variance with the well-known liberality and moderation practised at all times by his Majesty's government.

In regard to the insulting way in which the American flag was hauled down on board the "Flirt," by an officer holding a commission in his Majesty's naval service, I am awaiting your further promised communication, and have the honor to renew to you the assurance of my distinguished consideration.

AUGUST BELMONT.

His Excellency Monsieur VAN HALL,
Minister of Foreign Affairs, &c., &c., &c.

Captain Gibson to Mr. Marcy.

WASHINGTON, D. C.,
 March 25, 1854.

SIR: I have the honor to transmit to you, herewith, a copy of the examination of Henry Jones, in the superior court of New York, relative to the cruise of the "Flirt," whilst I was owner and commander, and on board of which vessel he was employed as a seaman; also a statement sworn to by, and a letter from, Captain Gorham F. Bassett, of the city of Boston.

I transmit these documents in the belief that they are well calculated to give you a better understanding of the justice of my claim against the government of Holland, now before your department.

I have the honor to be your most obedient servant,

WALTER M. GIBSON.

Hon. W. L. MARCY,
Secretary of State, Washington, D. C.

NEW YORK SUPERIOR COURT.

FRANKLIN W. WHITTLESEY	} <i>City and county of New York, ss:</i>
<i>against</i>	
WALTER M. GIBSON.	

Ammiel J. Willard, of said city, being duly sworn, saith that he is one of the attorneys for the above-named defendant, Walter M. Gibson

in this action. This deponent further saith, that he is fully acquainted with the case in this action, and knows the facts to be proved on the trial thereof by Henry Jones, and that said Henry Jones is, as deponent verily believes, a material and necessary witness for the defendant, and that the defendant cannot safely proceed to trial without the testimony of the said Henry Jones.

That said Jones is a sailor, as deponent is informed and believes, and has recently arrived in this city on a voyage from Mobile; that, as deponent has been informed and believes, said Jones expects and intends shortly to ship for a voyage, and to leave this State, and that deponent believes the said Jones will leave the State before, and be absent therefrom at the time, this action will be brought to trial. That issue has been joined in this action, and the same is under notice of trial for the present February term of this court.

A. J. WILLARD.

Sworn to before me, this 14th day of February, 1854.

JAMES M. SWEENEY,

Commissioner of Deeds.

NEW YORK SUPERIOR COURT.

FRANKLIN W. WHITTLESEY }
against
 WALTER M. GIBSON. }

On the complaint and answer in this action and the foregoing affidavit, I order that the plaintiff appear before me at the chambers of the justices of this court, at the City Hall in the city of New York, on the 15th day of February instant, at 10 o'clock a. m., and attend the examination of Henry Jones, named in the foregoing affidavit as a witness on behalf of the defendants in this action, to be examined conditionally pursuant to the statute.

Dated New York, February 14, 1854.

THOS. J. OAKLEY.

NEW YORK SUPERIOR COURT.

FRANKLIN W. WHITTLESEY }
against
 WALTER M. GIBSON. } February 22, 1854.

Deposition of Henry Jones, taken conditionally under an order of the court, dated February 14, 1854, which is hereto annexed.

The counsel for the plaintiff objects to the sufficiency of the affidavit. Question. What is your age, occupation, and place of residence?

Answer. My age is twenty-three years, and upwards. I am a seaman, and reside in Sag Harbor, in the State of New York.

Question. When did you return from sea, and do you expect to ship for a voyage?

Answer. I returned from sea on the eighth day of the present month. I expect to ship for a voyage.

Question. Are you acquainted with the plaintiff and defendant?

Answer. I have known them both before.

Question. Is Mr. Whittlesey, the plaintiff, here present?

Answer. He is.

Question. Did you ever sail in the American schooner Flirt, and from what port did you sail, and at or about what time?

Answer. I sailed from New York the thirteenth day of May, 1851.

Question. Did you ship on her as a seaman?

Answer. I shipped as ordinary seaman.

Question. What were the names of her officers?

Answer. At the time we sailed Mr. Townsend was master, and Jacob Hoffman was mate.

Question. How many seamen had she, and state, if you can, the names?

Answer. There were five seamen forward. One was named Eustachio; one by the name of Antonio; another by the name of John Reynolds; and another whose Christian name was William—I don't know his surname; and the other was myself.

Question. At the time of leaving New York, was there any person on board except those you have named?

Answer. There was one whose name was Luigi, and he stopped in the cabin; was an Italian; there was no other person on board.

Question. Do you know in what capacity Luigi went out?

Answer. At the time of leaving New York I did not know, but I do now. He was Captain Gibson's servant.

Question. At the time of leaving New York State, who, if any one, joined the schooner?

Answer. Mr. Whittlesey and Mr. Gibson.

Question. Where did they come on board?

Answer. I forget the name, but it was either Broad or Black island. It was Black island.

Question. How did they come off to the schooner?

Answer. In a boat, together.

Question. Did any one else besides them join the schooner after she left New York, and before her arrival at Porto Praya?

Answer. No one joined her.

Question. Who shipped you as a seaman?

Answer. I was shipped at Pool & Pantis's office.

Question. For what voyage did you ship?

Answer. For Bahia or any port in Brazil.

(Objected to on the ground that the shipping articles ought to be produced.)

Question. Do you know where the ship's papers are?

Answer. I don't know now where they are. The last time I saw them they were with Mr. Gibson, at sea.

Question. What cargo had she on board at the time of sailing?

Answer. Ice.

Question. About what amount of cargo did she have on board?
(Objected that this should be proved by documentary evidence.)

Answer. She had about thirty tons; there might be ten, more or less.

Question. Had she any other cargo?

Answer. There was nothing, only a little pig-iron for ballast.

Question. What armament, if any, had she?

Answer. She had a rifle, a revolving pistol, a broken pike and a harpoon; and that was all I know of being on board. I don't know what the captain might have had locked up in his trunk.

Question. If there had been any arms except in the captain's trunk, would you have known it?

Answer. No; for they might have been locked up in different places in the cabin.

Question. Have you ever sailed on the coast of Africa?

Answer. I have; but not with this schooner.

Question. Do you know what provisions and equipment are required for the slave trade?

Answer. No sir. I have never been on board of a slaver.

Question. Was the Flirt provisioned for a voyage on the coast of Africa?

(Objected to as leading.)

Answer. She was not.

Question. Had she any material for slave-decks or irons on board, to your knowledge?

(Objected to as leading.)

Answer. She had none, to my knowledge.

Question. In what capacity did Mr. Gibson sail?

Answer. As passenger.

Question. In what capacity did Mr. Whittlesey sail?

Answer. As passenger.

Question. Did any difficulty occur in the course of the outward passage; and if so, what was its nature?

Answer. One of the men was put in irons by Captain Townsend.

Question. Did any other difficulty occur; and if so, what was its nature?

Answer. The men forward concluded one day upon going aft to Captain Townsend, and asking where we was bound to. He said, to Bahia. There was one of the men, by the name of William, said that we would never reach Bahia the way we were sailing. Everybody on board were present at the time it was said. Both Mr. Whittlesey and Mr. Gibson were present. William concluded that we should all give her in charge to the owner, to take her into the nearest port. William asked who was the owner. Captain Townsend pointed to Mr. Gibson, and said that he was the owner. Then William said, "How am I to know that he is owner?" Then Mr. Gibson went down into the cabin and brought up the ship's papers, and showed them to all hands. He told us at the time what he paid for them. Then it was all over, and the men went forward. Mr. Gibson told us when we were going forward that he would see to the navigation of the vessel, with Mr. Townsend, sailing-master, to go to Port Praya.

Question. Was Mr. Whittlesey in hearing of the whole of the conversation that you have stated?

Answer. He was.

Question. Did he take any part in the conversation?

Answer. No, sir; he did not say anything?

Question. For what port did you then sail, and about what time did you reach such port?

Answer. We sailed for Port Praya, and reached it some time in the middle of July, 1851.

Question. How many days' sail was it from the place where the circumstances you have related occurred, to Port Praya?

Answer. It was about eight days.

Question. What led the men to go aft as you described?

Answer. On account of Captain Townsend sailing by the wind, and never making any course. No matter how the wind would shift, he would sail by the wind. Mr. Townsend would be making sail and taking in sail when it was not required, and come and ask the men what he should do when anything was to be done.

Question. Was Mr. Gibson in anywise concerned in instigating this action of the men?

(Objected to, as leading.)

Answer. Not to my knowledge.

Question. Was he in the habit of conversing with the seamen?

(Objected to, as leading.)

Answer. He was not.

Question. Were either Mr. Whittlesey or Mr. Townsend in the habit of conversing with the men?

Answer. Mr. Whittlesey was not, but Mr. Townsend very often conversed with the men in regard to the working of the vessel.

Question. Did Mr. Townsend ever talk with the men about going to the coast of Africa?

(Objected to as leading, and as irrelevant, and answer taken subject to the objection.)

Answer. He had talked with me once about going to the coast of Africa. He asked me to what part of the coast I had been, and I said Sierra Leone. He asked me what kind of a place it was, and I told him it was a large harbor where all the English men-of-war put in. He asked me what course we used to steer going, and I told him I did not know.

Question. Did he have any conversation with you about the slave trade?

(Objected to as leading and irrelevant, and taken subject to the objection.)

Answer. He said nothing.

Question. Was there any difficulty or mutiny on board the Flirt from the time of her leaving New York till she arrived at the Port Praya, except as you have stated?

(Objected to as leading, and taken subject to the exception.)

Answer. There was not.

Question. Was there any violence of any kind used on board on that voyage?

(Objected to as leading, and taken subject to the exception.)

Answer. There was not.

Question. Do you know of Captain Gibson's having used any violence on that voyage to any one, or threatened any?

Answer. He threatened me once when he was putting William in irons, and said that he would put me in irons for taking William's part. Mr. Gibson was going to help them put William in irons, and I was at the helm at the time, and told Mr. Gibson to leave William alone, for there was enough at the time on one man. Mr. Gibson told me to hold my tongue, or I should be put in irons too.

Question. Who had ordered William to be put in irons?

Answer. Captain Townsend.

Question. Do you know of Captain Gibson's using or threatening violence to any person, or on any other occasion, during the voyage?

(Objected to as leading, and taken subject to the objection.)

Answer. No, sir.

Question. Do you know of any difficulty between Mr. Gibson and Mr. Whittlesey during the voyage?

Answer. No, sir.

Question. Were they in the habit of meeting each other and conversing during the voyage?

(Objected to as leading, and taken subject to the objection.)

Answer. They were.

Question. Upon what terms did they appear to be on the voyage till they arrived at the Port Praya?

Answer. On friendly terms.

Question. Do you know, or did you hear, of Mr. Whittlesey's being threatened by Mr. Gibson?

(Objected to as leading, and taken subject to the objection.)

Answer. I did not.

Question. Did Mr. Whittlesey ever to your knowledge object to the course pursued by Captain Gibson, from the time the men went aft, as you have described, until your arrival at Port Praya?

(Objected to as leading, and taken subject to the objection.)

Answer. No, sir.

Adjourned to Thursday, February 23, at 10 o'clock p. m.

THURSDAY, *February 23, 1854.*—Present Mr. Marsh for plaintiff, Mr. Willard for defendant. Examination of Henry Jones continued:

Question. Was the Flirt a rapid sailer?

Answer. Yes, sir.

Question. How long should she have taken for the voyage from New York to Port Praya?

Answer. I don't know the distance.

Question. At that time, how far could she sail in a day under the circumstances of that voyage?

(Objected to, as irrelevant: reserved.)

Answer. She could make a hundred miles, on an average, each day.

Question. Will you state what occurred upon your arrival at Port Praya?

Answer. First, when we went to Port Praya, Captain Townsend and Mr. Gibson went ashore. I went ashore with them. Before we went ashore we went alongside a brig belonging to Salem, and Captain Townsend asked the captain if he had any bread to spare. The captain of the brig said he had none to spare, as he had as little as he could get along with himself. Then we went ashore. Mr. Gibson and Mr. Townsend went up town. I don't know when they came on board that night. I did not go aboard myself until the next morning. Next morning I came aboard; after that Mr. Whittlesey and Mr. Townsend went on shore. That evening they came on board. The next day Mr. Whittlesey and Captain Townsend went on shore again; and Mr. Gibson's man-servant, Luigi, went with them. About two or three o'clock in the afternoon an officer came alongside. There were about ten or twelve soldiers in the boat. Some of the soldiers came on board along with the officer, and then they took off the main hatch; and I and two more men, and several soldiers, went down into the hold and searched if we could find anything but ice. We found nothing but ice and saw-dust, and some shovels to take the ice out with. Then Captain Gibson went on shore along with the officer. Before Captain Gibson went on shore Mr. Townsend came on board. When he came on board, he said to Mr. Gibson: "Dear sir, I hope you will forgive me, for I have gone too far in trouble; I hope you will help me out of it." Then Mr. Gibson and Mr. Townsend went down in the cabin, and Mr. Townsend collected all his things, and took them ashore. Then Mr. Gibson went ashore along with the soldiers and the officer, and then returned that same evening about sunset with the commander of the fort and the consul. They went down along with Mr. Gibson in the cabin, and drank some wine and champagne along with Mr. Gibson. About seven or eight o'clock that evening, (I forget the time exactly,) the commander and the consul went on shore. A day or two after, Mr. Whittlesey came on board, and got his things passed up out of the cabin and put into a boat, and then went ashore. For two or three days, while we were lying in port, Mr. Gibson went ashore every day. The last day that we were there the consul and another officer came on board, and went down in the cabin along with Mr. Gibson; and they stopped for about an hour or two, (I will not be certain.) Then Mr. Gibson and they went on shore. That night, about nine o'clock, Mr. Gibson came on board and called all hands aft; and told us all that the captain of the port and consul had made him captain as well as owner. Then we hoisted up the anchor, and made way for Pernambuco.

(The last above answer objected to by plaintiff's counsel, and each and every part thereof, as irrelevant and incompetent.)

Question. After Mr. Whittlesey went on shore with Townsend on the morning of the third day after you arrived, when did he return, and for what?

(Objected to, as leading and assuming a state of facts not proven.)

Answer. Mr. Whittlesey returned one or two days after that to get his things.

Question. What appeared to be the feelings between Mr. Whittlesey, Mr. Gibson, and Mr. Townsend, previous to Whittlesey and Townsend going on shore on the third day after your arrival?

(Object, for same reason as to the last above question.)

Answer. They bid good morning to each other; they appeared to be on good terms.

Question. Did Mr. Whittlesey make any complaint whatever against Mr. Gibson, when he came on board for his things?

Answer. No, sir.

Question. How long did you continue in the "Flirt?"

(Objected to, as irrelevant.)

Answer. Almost nine months; until she arrived at Palembang, in the Island of Sumatra.

Question. During the whole of her voyage from New York to Palembang, was any act of piracy ever committed by the schooner, or any piratical cruise ever intended, to your knowledge?

(Objected to, as leading.)

Answer. No, sir.

The witness being cross-examined by the counsel for the plaintiff, testified as follows:

Question. You say you left the port of New York on the 13th of May, 1851. How long before that day were you employed to go on the voyage?

Answer. I was employed for a month or six weeks.

Question. Where did you spend that month or six weeks?

Answer. On board the Flirt.

Question. Who was on board with you?

Answer. There was a young man named John Reynolds, and John McCarty, the mate; and there were other men at different times—some laborers and riggers.

Question. Have you mentioned all who were in any way connected with the vessel, who were on board with you?

Answer. There was the captain, Mr. Townsend, and Mr. Whittlesey.

Question. What connexion had Mr. Whittlesey with the vessel?

Answer. I don't know.

Question. How long was Mr. Whittlesey on board before she sailed?

Answer. Mr. Whittlesey did not stay on board at all, but came on board sometimes.

Question. How long before the "Flirt" sailed, did you first see Mr. Whittlesey on board?

Answer. I can't say. It might have been a week or a fortnight after I came on board.

Question. How long did he stay there at any one time?

Answer. From five to fifteen minutes.

Question. How often did he come on board?

Answer. Sometimes he would come two or three times a day, and sometimes he would not be there for four or five days.

Question. Were you on board all the time every day, while the vessel was in port?

Answer. Excepting when it would be raining.

Question. How many rainy days were there while you were in port?

Answer. I do not know.

Question. What did Mr. Whittlesey do on board, or what did he appear to come there for?

Answer. He would come to see the captain.

Question. Who paid you from time to time as your wages accrued?

Answer. Mr. Townsend.

Question. Were you ever in Mr. Whittlesey's office, No. 146 Front street?

Answer. Yes sir, I was.

Question. What were you there for?

Answer. I was there on an errand for the mate.

Question. What was the errand?

Answer. I had a note from the mate, but don't know what was in it.

Question. Were you ever in the office more than once?

Answer. I am not sure that I was twice there or once.

Question. Did you ever receive any money from Mr. Whittlesey, prior to the sailing of the vessel?

Answer. I received some in an office where we were shipped, from Mr. Townsend, when Mr. Whittlesey was there.

Question. Did Mr. Townsend receive the money from Mr. Whittlesey?

Answer. I did not see Mr. Whittlesey give Mr. Townsend any money.

Question. Did you ever receive any money from Mr. Whittlesey before the vessel sailed?

Answer. I received a shilling from him once.

Question. Did you receive any other money from Mr. Whittlesey before the sailing of the vessel?

Answer. No, sir, I did not.

Question. You say Mr. Whittlesey was present when you received money at the shipping-office from Captain Townsend. Did Mr. Whittlesey appear to have any interest or connexion with the business?

Answer. Not to my knowledge.

Question. How much money did Captain Townsend pay you on that occasion, and what for?

Answer. Fifteen or seventeen dollars for days' work. Before I got it I had to sue Mr. Townsend for it.

Question. Did you ever see Mr. Whittlesey do anything on board; take any interest in any business connected with the vessel, or pay any money for the vessel, prior to her sailing?

Answer. Nothing more than that he used to be with the captain.

Question. When did you first see Mr. Gibson on board before sailing?

Answer. I never saw him before sailing.

Question. Did you hear his name mentioned on board before sailing?

Answer. No, sir.

Question. Did you have any business relations with any other person than Captain Townsend, before sailing?

Answer. No, sir.

Question. Did you know before sailing who was the owner of the vessel?

Answer. I did not know who was the owner.

Question. Was it known before sailing that Mr. Whittlesey would sail in her?

Answer. Not to my knowledge.

Question. Was not his baggage on board before sailing?

Answer. If it was, it was unknown to me.

Question. Did the captain spend the night on board in New York?

Answer. Two or three nights previous to sailing I don't know who was on board.

Question. Did he spend any other night, prior to the three or four nights next before sailing, on board?

Answer. The time we went up the North river for ice Mr. Townsend was on board.

Question. Did he, to your knowledge, spend a single night on board while he was in the port of New York?

Answer. Not to my knowledge.

Question. When did Luigi come on board?

Answer. When we were lying over at Jersey City.

Question. How many days before sailing?

Answer. One day.

Question. What time of day did he come on board?

Answer. It was in the forenoon.

Question. Do you mean to be understood, then, that Luigi came on board on the morning of the 12th of May?

Answer. I won't swear whether it was the day we sailed or the day before.

Question. Was it one of the two?

Answer. Yes.

Question. Were you present when he came on board?

Answer. Yes.

Question. Did he bring his baggage with him when he came on board?

Answer. When he came on board I did not see any baggage. He had been aboard before that.

Question. When did he come aboard along with you?

Answer. It was in the morning.

Question. Of what day?

Answer. I can't tell whether of the day we sailed or the day before.

Question. How happened he to come on board with you?

Answer. I was coming on board and he followed me.

Question. Had you ever seen him before?

Answer. No, sir.

Question. How do you know that he had been on board before?

Answer. When I went on board I saw John Reynolds and asked him who Luigi was. He said he was going with us as passenger.

Question. Did Luigi speak to you?

Answer. No, sir.

Question. Is that all that Reynolds said to you about Luigi?

Answer. Yes.

Question. Did Reynolds say that Luigi had been on board before?

Answer. Yes, sir.

Question. How, then, came you to say that he had not been on board before the day of sailing, or the day before that?

(Objected to, as involving a fact that does not exist.)

Answer. John Reynolds told me that Luigi had been on board about an hour before that.

Question. If he had been on board prior to the time you mentioned, would you have known it?

Answer. No, sir.

Question. Why not?

Answer. Because I had not been aboard the schooner two or three days before sailing.

Question. Where were you?

Answer. I was in New York.

Question. Why were you not on board?

Answer. The day I went away it was raining; because it was raining I was not wanted aboard.

Question. Are you sure that was the reason why you were not on board?

Answer. Yes.

Question. You have given the names of the persons on board when the vessel sailed. Have you given the names of all the persons on board?

Answer. No, I have not given the names of all the persons on board. There was a cook. I did not know his name.

Question. How long was the cook in the schooner?

Answer. He was in her from New York to Port Praya.

Question. Did he leave at Port Praya?

Answer. Yes, sir.

Question. Did you ever hear the cook's name?

Answer. I can't say that I ever did.

Question. Was there any other person on board when you left New York except those above referred to?

Answer. No, sir, none, except the pilot.

Question. Are you sure?

Answer. Yes, sir.

Question. When you left the port of New York, to what place did you first sail?

Answer. To Block Island.

Question. What was the pilot's name?

Answer. I don't know.

Question. Where did you sail to when you left Block Island?

Answer. We sailed round and round the compass. We were bound to Bahia.

Question. Did you put into the port of Block Island more than once?

Answer. No. Before we went into port we hove to, so that the boat could come to us with Mr. Whittlesey and Mr. Gibson.

Question. Did you go into port after Mr. Whittlesey and Mr. Gibson came on board?

Answer. Yes, sir.

Question. How long did you remain?

Answer. We remained there half a day, a night, and half the next day.

Question. Did you proceed direct from the port of New York to Block Island?

Answer. We did not make a direct course for there.

Question. What course did you take?

Answer. I forget the course.

Question. Did you come to anchor before you reached Block Island?

Answer. No, sir.

Question. Did you come to anchor at Block Island?

Answer. Not until we got in port.

Question. What do you mean by port?

Answer. I mean the place where a vessel can go in and anchor in safety.

Question. Was there such a port at Block Island?

Answer. We went up a bit of a river, or something of that kind.

Question. Do you mean to say that after Whittlesey and Gibson came aboard, the schooner anchored at or near Block Island, half a day, a night, and half the next day?

Answer. Yes, sir.

Question. Is there any river or creek in Block Island?

Answer. There is a river. I forget exactly how the place is situated; whether it is a river, creek, or open bay. I was never there but that once.

Question. Did you ever go to Newport in the schooner "Flirt?"

Answer. We only went into but one port.

Question. Was that port Newport, or Block Island?

Answer. I don't know whether it was Newport or Block Island. I only know that we went in only [one port] from New York to Porto Praya.

Question. Will you say that you ever saw Block Island?

Answer. Yes. It was off Block Island that Mr. Whittlesey came on board.

Question. Do you swear that you never went to Newport in the schooner "Flirt?"

Answer. No, I do not. We went in one port. I forget what that was; can't say whether it was Block Island or Newport.

Question. Are you sure that no one left the vessel after she left the port of New York, and before she put to sea?

Answer. There was one man missing at the port we were in before we got to Port Praya.

Question. Did you see Mr. Gibson and Mr. Whittlesey when they came on board together?

Answer. Yes.

Question. How much baggage had Captain Gibson when he came on board?

Answer. I don't know what Mr. Gibson had, for there were several things in the boat. I did not know whether Mr. Whittlesey or Mr. Gibson owned them.

Question. Why did they come on board at Block Island, and not at the port of New York?

Answer. I don't know, sir.

Adjourned to Friday, February 24, at 10 a. m.

FRIDAY, *February 24*, 1854.—Counsel for both parties attending. Thomas Jones further cross-examined by counsel for plaintiff.

Question. You say there was a man missing at the port you were before you got at Porto Praya. Was the missing man one of those you had previously mentioned?

Answer. I did not mention his name.

Question. You have said there were five seamen on board when the vessel left the port of New York. Was the missing seaman one of the five?

Answer. No. There were six with him.

Question. Have you ever seen him since?

Answer. Never.

Question. How long have you resided at Sag Harbor?

Answer. Four years next September.

Question. Where did you reside previous to residing at Sag Harbor, and how long?

Answer. I resided in Liverpool for about eighteen years.

Question. Where did you reside previous to residing at Liverpool, and how long?

Answer. Nowhere.

Question. Are you a native of Liverpool?

Answer. I was born in Liverpool.

Question. Did Mr. Whittlesey, previous to his sailing in the schooner, appear to take any interest in the vessel, her loading, or management?

(Objected to as having been once answered.)

Answer. No, sir.

Question. Did you ever see Mr. Whittlesey write?

Answer. Not to my knowledge.

Question. Did you ever see any of his handwriting?

(Objected to, as immaterial.)

Answer. I can't say that I have.

Question. Can you write?

Answer. I can write my name, sir.

(Counsel for plaintiff produces and exhibits to the witness a paper marked "A", a copy of which is hereto annexed, the original being endorsed by the respective counsel as follows: A. J. W. and E. W. M.)

Question. Is the signature, Henry Jones, to the paper now produced, in your proper handwriting?

Answer. I can't tell whether it is or not.

Question. Do you know J. McCarty?

Answer. I have sailed with him.

Question. Did you ever see him write?

Answer. Yes, I have.

Question. Are you acquainted with his signature?

Answer. No, I am not.

(Counsel for plaintiff shows same paper, marked A, to witness.)

Question. Did you see the signature, J. McCarty, signed to that paper?

Answer. I did not; I can't recollect.

Question. You have just now said that you never made that "H" in your life. What "H" do you mean?

Answer. The "H" in the words "Henry Jones," on the third line of the paper marked Ex. "A."

Question. How do you know you did not make it?

Answer. Because I never made it that way.

Question. Do you make an "H" like the "H" in the words "Henry Jones," at the bottom of the paper?

Answer. Not exactly.

Question. How does the "H" differ from the "H" you usually make?

Answer. I can show you if you give me pen and paper.

Question. Cannot you describe the difference?

Answer. I don't make that scroll, resembling a "Y," at the beginning of the letter "H."

Question. Is that all the difference?

Answer. That is all.

Question. Do the other letters in the words "Henry Jones," at the bottom of paper "A," resemble yours?

Answer. They look like mine.

Question. Will you swear that the signature of "Henry Jones," at the bottom of Ex. "A," is not your genuine signature?

Answer. I won't say that that is not my signature. I can't tell.

Question. Do you know in whose handwriting the body of the paper marked "A" is?

Answer. I do not.

(The paper being read to the witness, the following question is put:)

Question. Have you any recollection of receiving the money specified on the paper exhibit "A;" and if so, from whom?

Answer. I don't know. I received money at different [times,] but the amounts I forget, except the last time I received, and that was from fifteen to seventeen dollars.

Question. Can you recollect from whom you received all the money that you received for services on board the schooner "Flirt," prior to her sailing from the port of New York?

Answer. From Mr. Townsend.

Question. Do you mean to be understood that no person paid you any money for services on board the schooner "Flirt," prior to her sailing from the port of New York, except Capt. Townsend?

Answer. He was the only person that paid the money to me.

Question. Did you ever receive any money from the hand of any other person than Capt. Townsend for your services on board the schooner "Flirt," prior to her sailing from the port of New York?

Answer. All I received was a shilling from Mr. Whittlesey.

Question. What was that shilling paid you for?

Answer. To pay the omnibus.

Question. Where from, and where to?

Answer. The schooner was lying at the North river. It was to her from Mr. Whittlesey's office.

Question. Was Mr. Whittlesey's office at that time at No. 146 Front street?

Answer. Yes, sir.

Question. Where was the schooner lying at that time?

Answer. She was lying at a lumber-yard on the North river.

Question. Is that shilling the only sum of money you ever received in Mr. Whittlesey's office?

Answer. Yes, sir.

Question. What was the schooner doing at that lumber-yard?

Answer. She was taking in lumber at one time.

Question. How much lumber did she take in?

Answer. Both sides of the deck were filled up half way to the gunwale.

Question. What was done with the lumber?

Answer. The man who owned it came one day with a laboring man and took it out again.

Question. Was there any lumber put into the hold?

Answer. I did not see any.

Question. How came this lumber to be taken off again, after it was put on the ship?

Answer. I don't know.

Question. Who had charge of the ship that morning?

Answer. I forget whether Mr. McCarty was on board or not. Yes, Mr. McCarty was on board, but before they came. I don't know that he was there.

Question. Where did the vessel go to, next, from the lumber-yard?

Answer. I forget whether she came down here to the docks or not.

Question. Had the vessel any other cargo at the time the lumber was put on board?

Answer. She had ice in her.

Question. Do you know who contracted for the lumber?

Answer. I do not.

Question. You have said, in your direct examination, that you have known the plaintiff before. What acquaintance have you with the plaintiff?

Answer. I knew him by sight, aboard the schooner.

Question. Did you ever hold any conversation with him, on board the schooner or elsewhere?

Answer. Before we left New York, he would sometimes, when the Captain was not on board, come on board and ask me where the Captain had gone to.

Question. Is that all the conversation you ever had with him?

Answer. At the time I was at his office, I went on an errand for Mr. McCarty. He then gave me the shilling and spoke to me; but I do not recollect what was said.

Question. Have you now stated the substance of all conversation you ever had with him?

Answer. I don't know that I ever had more conversation; but I might have had, and forget.

Question. Have you any recollection of having spoken to him, or he to you, while on board the schooner?

Answer. Yes, sir, I recollect now. He asked me to draw him some water, to bathe in. I drew the water, and threw it over him.

Question. Did you ever have any other conversation with him than that?

Answer. Not that I recollect. There might have been some such little things as that; but not that I recollect.

Question. Did you ever hear Mr. Whittlesey talking with any of the hands on board?

Answer. I never recollect Mr. Whittlesey talking with any of the persons on board, except the captain and Mr. Gibson.

Question. Did you ever see him apparently in conversation with any one except the captain and Gibson?

Answer. Not to my recollection.

Question. When did you return from Palembang to New York?

Answer. Last July.

Question. Did you arrive in New York in July?

Answer. Yes.

Question. How long after your arrival here did you first see Captain Gibson?

Answer. I did not see him until last Monday, from the time that I left Singapore.

Question. Where did you see him last Monday?

Answer. In Mr. Willard's office.

Question. What vessel did you return in?

Answer. In the ship Cohota.

Question. Did you see Captain Gibson at Singapore?

Answer. No, sir.

Question. Why, then, did you say that you did not see Captain Gibson until last Monday, since you left Singapore?

Answer. I made a mistake. It was at Batavia I saw him last; then I went to Singapore myself.

Question. How many times have you seen him since last Monday?

Answer. I have seen him on three days, at Mr. Willard's office, besides the time I saw him on Monday last.

Question. Did you ever see Captain Gibson in conversation with any of the men on board, before the arrival of the schooner at Porto Praya?

Answer. I never saw him in any conversation.

Question. Did you ever have any conversation with Luigi?

Answer. He often used to speak a kind of broken English.

Question. Who did he speak to when he spoke broken English?

Answer. He spoke to everybody at times; but none had any long conversation.

Question. Was he ever on deck during your watch at night?

Answer. In the first watch, he would be sometimes on deck.

Question. Did you ever see Luigi forward?

Answer. I saw him in different parts of the vessel.

Question. Did you ever see him forward?

Answer. Yes, sir.

Question. Is that the place where sailors usually stay when off duty?

Answer. No, sir.

Question. Where do they stay when off duty?

Answer. A little further forward, and in the forecastle.

Question. What tonnage has the schooner?

Answer. I think two hundred and fifty, net sum.

Question. Can you judge pretty accurately by the eye the tonnage of a vessel?

Answer. No, I cannot.

Question. How nearly full was the schooner loaded with ice?

Answer. Up to the beams.

Question. Do you mean that the hold of the schooner was full?

Answer. It was full.

Question. Would it not take more than thirty tons of ice to load a schooner of two hundred and fifty tons, as you have described?

Answer. It might take fifty tons more, for all I know.

Question. You said, in your direct examination, that you thought there were thirty tons of ice on board. Are you still of the same opinion?

Answer. I said I thought there were thirty tons or thereabouts. I can't tell how much more it would take to fill the vessel. I am quite ignorant of how much ice it would take to fill a vessel of two hundred and fifty tons. I know she was full up to the beams.

Question. What was the distance between where you saw Luigi and the forecastle?

Answer. About six feet.

Question. Did you ever see Luigi play cards?

Answer. I never saw a pack of cards on board of that schooner, to my knowledge.

Question. How often have you seen Luigi within six feet of the forecastle?

Answer. Every time he had any clothes to wash he came there to wash them.

Question. Did you ever see him except when he came there to wash clothes?

Answer. Sometimes he went all on the deck forward and aft.

Question. Did you ever see him in the forecastle?

Answer. Not to my recollection.

Question. Did not Luigi pretty generally associate with the sailors when they were off duty?

Answer. Not to have any long conversation, to my knowledge. He might have done it when I was asleep, for all I can tell.

Question. Did you ever see him on top of the long-boat smoking a cigar or pipe, singing and conversing with the sailors?

Answer. I don't recollect.

Question. Did you ever see Luigi smoke a cigar?

Answer. I do not recollect; do not know whether he smoked or not.

Question. Did Luigi go to Palembang with you?

Answer. No, sir.

Question. When did he leave the vessel?

Answer. He was put in prison at Maçeio.

Question. What was he put in prison there for, and on whose complaint?

Answer. There were two men that had cut one another up with knives, and all hands were drunk, excepting myself, when Mr. Gibson was on shore. In the afternoon Mr. Gibson came off with some soldiers, and put every one in prison but myself.

Question. Was Luigi left there in prison?

Answer. Yes.

Question. Who were the two men engaged in cutting each other up?

Answer. A man by the name of Jacob Hoffman, and the other's name was Rogers; I think William, but am not sure.

Question. Was Hoffman the mate of the vessel when she left New York?

Answer. Yes.

Question. Did all the sailors that left New York, who were on board when the vessel arrived at Maçeio, leave the vessel, except yourself, and remain in prison at Maçeio?

Answer. They were all put on shore, and were not taken back again.

Question. Were they not in prison when you left Maçeio?

Answer. I don't know whether they were still in prison, or were liberated.

Question. Where was the ice unladed?

Answer. It was taken out at Pernambuco.

Question. Why did not the vessel go to Bahia?

Answer. I do not know.

Question. Did she go to Bahia at all during the voyage?

Answer. No, sir.

Question. How far is Maçeio from Pernambuco?

Answer. About twenty miles.

Question. Which place did you stop at first, Pernambuco or Maçeio?

Answer. Maçeio.

Question. How long did you stop at Maçeio?

Answer. I forget how long we stopped.

Question. Did you stop a week, a month, or one day?

Answer. I know we stopped there more than one week.

Question. How much more?

Answer. It might have been four weeks.

Question. What were you doing there?

Answer. The captain used to be ashore most every day. The most that kept us there was having no crew to go to Parnambuco.

Question. Was anything taken on the vessel, or anything taken off, at Maçeio?

(Objected to, on the ground that what took place at Maçeio is wholly irrelevant.)

Answer. There were some fresh provisions brought on, and two or three coils of rope for running-gear.

Question. Is that all?

Answer. That is all that came aboard there, to my knowledge.

Question. How soon after you arrived at Maceio were the sailors arrested?

Answer. The first day.

Question. Did you ever see any of them after they left the vessel?

Answer. Yes; I have seen William Rogers, who was wounded. He came on board of the schooner, and was getting better of his wounds. He was not put in prison, but had been taken on shore to a doctor.

Question. Have you seen any of the sailors that were on board of the "Flirt" since your arrival at New York?

Answer. No, sir.

Question. Before whom was the complaint made on which these men were arrested at Maceio, and by whom?

Answer. All I know is, that Mr. Gibson brought some soldiers on board and took them ashore.

Question. How long did you and Gibson remain sole occupants of the schooner after the arrest of the men?

Answer. The next day Mr. Gibson went on shore. The next three or four days I was on board by myself. Then he hired two colored men to pull the boat ashore.

Question. Did Gibson sleep on board at Maceio?

Answer. After the first night, for two or three nights, he did not; all the remainder of the time he slept on board.

Question. Did the blacks sleep on board?

Answer. Some nights they slept on board; some nights on shore.

Question. Were they slaves or free men?

Answer. I don't know.

Question. Did the black men leave Maceio?

Answer. I forget whether these two men went or not. It was colored men who worked the vessel from Maceio to Pernambuco.

Question. How long did you remain in Pernambuco?

Answer. About four weeks.

Question. How far is Pernambuco from Bahia?

Answer. I don't know.

Question. Do you know the direction from Pernambuco to Bahia?

Answer. No, sir.

Question. What countryman was Luigi?

Answer. He was an Italian.

Question. Why was he put in prison?

Answer. For getting drunk; and for something he said to Mr. Gibson, when Mr. Gibson came on board.

Question. What was that something?

Answer. It was spoken in a language that I did not understand.

Question. Do you understand any other language besides the English language?

Answer. I understand a little of the Portuguese language.

Question. Do you understand Spanish when you hear it spoken?

Answer. I understand a few words.

Question. What was Luigi's business on board?

Answer. He acted as Captain Gibson's servant. He washed his clothes, and such things.

Question. Did he ever do any ship's duty?

Answer. No, sir.

Question. Was his position the same after he left Porto Praya as before?

Answer. I never saw any difference in him, only the time he got drunk at Maçêio.

Question. What countryman was William, who left New York in the vessel?

Answer. I think he was American. He always told me he was American.

Question. What countryman was Hoffman?

Answer. He was an American.

Question. What countryman was the cook?

Answer. I don't know whether he was a Spaniard or a Frenchman.

Question. What countryman was Eustachio?

Answer. He was an Italian, I think.

Question. What countryman was Antonio?

Answer. I think a Spaniard; but I am not sure.

Question. What countryman was John Reynolds?

Answer. I don't know what countryman he was.

Question. What countryman is Gibson?

Answer. I think he is an American.

Question. You have been asked, in your direct examination, what armament the schooner had on board. Might not Gibson have had arms in his trunk, or elsewhere, without your knowledge?

Answer. All their trunks might be full for all I knew.

Question. Might there not have been arms in the cabin without your knowledge?

Answer. Not without they were somewhere out of sight.

Question. Do you know the difference between a rifle and a carbine?

Answer. No, I do not.

Question. How long was this rifle?

Answer. Now that I come to recollect, I think they called it a carbine. It was about two and a half to three feet long.

Question. Could it not easily have been packed in a trunk?

Answer. I don't know whether it was too long to go in a trunk.

Question. You say that Mr. Whittlesey sailed in the capacity of a passenger. How do you know in what capacity he sailed?

Answer. Captain Townsend said, when he was going to Block Island, that he was going to take in passengers there.

Question. Is that all you know about it?

Answer. That is all I know; that they were passengers.

Question. What do you know since about Mr. Whittlesey's being a passenger?

Answer. I never found out yet that Mr. Whittlesey was anything more than a passenger.

Question. Where was he a passenger to?

Answer. I did not know where he wanted to go. But I suppose, as he was bound to Bahia, he wanted to go to Bahia.

Question. Do you know anything more about Mr. Whittlesey's relation to the ship than what Captain Townsend told you?

Answer. No, sir.

Question. Did you hear Captain Townsend say anything about his being a passenger at any other time except that once?

Answer. No, sir.

Question. Was Mr. Whittlesey present when Captain Townsend made that remark?

Answer. No, sir.

Question. Why did not Mr. Whittlesey go in with the vessel from Porto Praya?

Answer. I don't know, sir.

Question. Do you know why he left the vessel at Porto Praya?

Answer. No, I do not.

Adjourned to Saturday, 25th, at 10 a. m.

SATURDAY, *February 25*.—Counsel for both parties present.

Adjourned to Tuesday, 28th instant, at 10 a. m.

TUESDAY, *February 28*.—Present, counsel for both parties.

Cross-examination of Henry Jones continued:

Question. What season of the year did you arrive at Pernambuco?

Answer. In the summer season, in the month of August.

Question. How long were you going from Porto Praya to Maçao?

Answer. About three weeks.

Question. Then if you arrived at Porto Praya in the middle of July, and were three weeks going from Porto Praya to Maçao, and remained four weeks at Maçao, you must have arrived at Pernambuco in September; did you not?

Answer. Well, I am not sure how long we were going from Porto Praya to Maçao, nor how long we stayed at Maçao.

Question. Are you sure whether you arrived at Pernambuco in August or September?

Answer. I am not sure, but think it was in August.

Question. How long did you remain at Pernambuco?

Answer. I could not tell how long. I believe we were in Pernambuco somewhere about four weeks; it might have been a week more.

Question. Did the vessel undergo any repairs there?

Answer. She got some new running gear, I think.

Question. Did she have new sails put on her at Pernambuco?

Answer. No; she got some new canvass.

Question. Was her cargo taken out at that time?

Answer. Yes.

Question. Did she take on board new cargo at Pernambuco?

Answer. No, sir.

Question. Did she take in anything else?

Answer. She took in some water-casks filled with water.

Question. How many?

Answer. I do not know how many.

Question. Where were they stowed?

Answer. Down in the hold.

Question. How much did it fill the hold?

Answer. We only took some on the ground tier. We put no casks on top of casks.

Question. How many were there on deck?

Answer. Four.

Question. Did you throw away those that were on board before, or were they taken out of the vessel?

Answer. We threw none away; none were taken out of the vessel to my knowledge.

Question. Did you fill those that were on board of the vessel before?

Answer. Yes.

Question. What else did you take on board besides canvass and water-casks?

Answer. Some provisions, besides running gear.

Question. What kind of provisions, and in what quantities?

Answer. What quantity I could not tell. There were bread, and beef, and pork, rice, beans, and some other small stores that I do not know.

Question. Was there a considerable quantity of rice?

Answer. No, sir.

Question. How many casks of rice and beans were there?

Answer. There was not a barrel of both.

Question. Was there anything else taken on board besides what you have enumerated?

Answer. Nothing else that I know of.

Question. Were there any staves taken on board?

Answer. No, sir.

Question. Was there any lumber taken on board?

Answer. I had forgotten that there was firewood taken on board. There was no lumber taken on board. I now recollect that there were some planks taken on board, and Mr. Gibson had a second cabin floor made of them.

Question. Were there any arms taken on board?

Answer. Not any, that I know of.

Question. What direction did you sail when you left Pernambuco?

Answer. We went to relieve a ship that was cast away close to Pernambuco.

Question. Where was the ship from, you went to relieve?

Answer. I don't know.

Question. Did you relieve the ship?

Answer. No, sir; we could not. We nearly got aground ourselves before we could get to her. We touched the bottom, and when we touched the bottom we came about.

Question. Who employed you to go and relieve the ship?

Answer. Captain Gibson employed us. I don't know who employed him.

Question. Did you return to port after attempting to relieve the ship?

Answer. No, sir.

Question. What direction did you sail then?

Answer. I can't tell the course.

Question. Could you tell the direction you took after attempting to relieve the vessel?

Answer. No, sir.

Question. Did you know, on leaving Pernambuco, for what port you were bound?

Answer. We were bound for Rio Janeiro.

Question. Did you know that you were bound for that port at the time you left Pernambuco?

Answer. Yes, sir.

Question. Did you clear for this port at the time the vessel left for Pernambuco?

Answer. Yes, providing we could do nothing for the ship that was aground.

Question. Was that proviso made at the custom-house?

Answer. I don't know.

Question. How do you know that the vessel cleared for Rio, if you do not know what took place at the custom-house?

Answer. Because the American consul told me so.

Question. Who was the American consul?

Answer. His name I forget.

Question. Did you go to Rio?

Answer. No, sir.

Question. What port did you stop at next?

Answer. Mintauk.

Question. Where is Mintauk?

Answer. In the East Indies.

Question. What part of the East Indies?

Answer. I believe it is the island of Sumatra.

Question. Are you sure?

Answer. No, sir; I am not sure, I only think it. If it is not a port in Sumatra, it is very near.

Question. Why did you not stop at Rio?

Answer. I don't know.

Question. How many persons were there on board when you left Pernambuco?

Answer. Ten, in all.

Question. Enumerate them by name, stating their offices?

Answer. Mr. Gibson was captain; Charles Murray Graham was mate; I was cook and steward; the hands before the mast were Orison Chaffee, James Joemy, one by the name of Antonio—his other name I do not know; two men, I don't know their names.

Question. How many of them spoke English?

Answer. Of the men forward, Orison Chaffee and James Joemy. You have not got all the names down. There was the carpenter, Edward Costello, and a cabin-boy, Antonio.

Question. Did the mate speak English?

Answer. Yes.

Question. Of what country was Graham?

Answer. He was a Scotchman.

Question. Do you mean to say that you did not touch at any point until you arrived at Mintauk?

Answer. We stopped a little while at an island called "Tristem d'Acunha."

Question. Whereabouts is that situated?

Answer. I don't know. It was in our way.

Question. Was it inhabited?

Answer. There was an old English soldier on the island that they called Governor.

Question. Was he the only inhabitant?

Answer. Whatever was ashore, I don't know. He and a few more came off in a boat to our vessel.

Question. Were the other men English?

Answer. They spoke English, but of what country they were I don't know.

Question. How long did you stop there?

Answer. We kept hove-to, not making any headway, for about an hour.

Question. Is that the only stop you made from Pernambuco to Mintauk?

Answer. A night or two before we went to Mintauk, or a day or two, we let go the anchor close to Mintauk to get some water; we could not get any there, and we went up to Mintauk.

Question. Are these stoppages you have mentioned the only stoppages you made before you arrived at Mintauk?

Answer. Yes.

Question. Did any one leave the vessel at Tristem d'Acunha?

Answer. No, sir.

Question. Was anything taken on board at Tristem d'Acunha?

Answer. Some milk and some eggs that the Governor brought with him.

Question. What month was it that you arrived at Tristem d'Acunha?

Answer. I forget.

Question. How long had you been sailing from Pernambuco after you arrived at Tristem d'Acunha?

Answer. I forget how long; whether it was soon after we left Pernambuco, or whether the voyage was half over.

Question. Was any inquiry made on board among the hands why you did not put into Rio?

Answer. No, sir.

Question. How soon after you left Pernambuco did you ascertain that you were not bound for Rio?

Answer. It was when we sighted the land of Tristem d'Acunha.

Question. Were you then informed where you were bound for?

Answer. I knew myself that we were bound for the East Indies; after I knew myself, I told the rest we were bound for the East Indies.

Question. Could you converse with all the hands on board?

Answer. Only a little, except with those that spoke English. The others were Portuguese.

Question. Of what country were those that spoke English?

Answer. One an American, and the other an Englishman. Orison Chaffee was the American.

Question. How long did you remain at Mintauk?

Answer. For about a week.

Question. Did you go on shore?

Answer. I went on shore once.

Question. How large a place is Mintauk? How many inhabitants?

Answer. I could not tell how many inhabitants; I have no idea.

Question. Was it a city?

Answer. No; it was a village.

Question. How many houses?

Answer. I don't know how many houses.

Question. Were there a thousand houses?

Answer. I only went about a quarter of a mile; only saw fifty houses myself.

Question. What language was spoken?

Answer. The Malay language.

Question. Were there any white inhabitants?

Answer. There were some Dutchmen.

Question. What did you do there?

Answer. We got some fresh provisions and water; that is all we got there.

Question. Where did you sail for next?

Answer. For Palembang.

Question. How long were you going there from Mintauk?

Answer. Only some days; could not tell how many.

Question. What month in the year was it you arrived at Palembang?

Answer. It was some time in the month of January, 1852.

Question. How long did you remain at Palembang?

Answer. I believe about three weeks.

Question. Where did you go to from Palembang?

Answer. We were taken prisoners there.

Question. Were you taken prisoner?

Answer. Yes, sir.

Question. What were you doing at Palembang?

Answer. I don't know what the vessel went there for, no more than that Mr. Gibson used to have the gentlemen of Palembang and the officers of the guard-brig on board dining with him.

Question. Did you ever hear Captain Gibson give any reason to any person living there why he put in at Palembang?

Answer. I heard him say that he was on a pleasure excursion.

Question. Did he not give out at Palembang that he was a wealthy Englishman, taking a pleasure excursion in his yacht?

Answer. Not to my knowledge.

Question. Did he give out there that he was a man of wealth?

Answer. I don't know, but the gentlemen that came on board respected him as a man that was a man of wealth.

Question. What do you mean by respecting him as a man of wealth?

Answer. They made free, like, and joked and laughed with him.

Question. Do you mean that they acted as though they thought him a man of wealth?

Answer. Yes, sir.

Question. Do you know, as a matter of fact, whether he was at the time a man of wealth?

Answer. I do not.

Question. Did you receive any wages at Pernambuco or Majeio?

Answer. I received twenty-six milreas, about \$13.

Question. Were the other hands who were imprisoned paid off at Majeio?

Answer. I don't know.

Question. Did you see any money paid them before they were arrested?

Answer. No, sir.

Question. If there had been, would you not have seen it or known it?

Answer. I think I would have known it, but it could have been done without my knowing it.

Question. Were any of the hands who were imprisoned at Majeio on board again?

Answer. No, sir.

Question. Was Rogers paid off at Majeio?

Answer. No, sir; he was paid off at Pernambuco.

Question. Did he go in the vessel to Pernambuco?

Answer. Yes, sir.

Question. Did he ship again at Pernambuco in the same vessel?

Answer. No, sir.

Question. How much was there due you when you arrived at Pernambuco?

Answer. There might have been about twenty dollars; I don't know exactly.

Question. What are your wages per month?

Answer. Eleven dollars; the seamen were thirteen; I was only ordinary seaman at that time.

Question. Were you paid in advance when you left the port of New York?

Answer. Yes, sir.

Question. How much?

Answer. Thirteen dollars.

Question. Were you paid off at Palembang?

Answer. No, sir.

Question. Have you ever been paid off?

Answer. No, sir.

Question. How much is there due you?

Answer. I don't know exactly.

Question. Have you been paid anything by Capt. Gibson since you arrived in New York?

Answer. No, sir.

Question. Have you been promised any?

Answer. Not since I came to New York.

Question. Do you expect him to pay you?

Answer. Yes, sir.

Question. Was Captain Gibson and yourself imprisoned for joking and laughing with the ladies and gentlemen on board the yacht?

Answer. I don't know what he was imprisoned for; I don't know what any of us were imprisoned for.

Question. Don't you know what charge was made against you?

Answer. No, sir.

Question. Did you employ counsel or an interpreter?

Answer. No, sir.

Question. Were you discharged from prison?

Answer. Yes, sir.

Question. Were all the hands discharged?

Answer. All hands, except the captain and the mate, were discharged when I was.

Question. Were any of the hands paid off at Palembang?

Answer. They all got some quantity of money; whatever it was I don't know.

Question. Did you get any money at Palembang?

Answer. No, sir; we were taken on to Batavia from Palembang.

Question. Did you get money at Batavia?

Answer. I got about fifteen dollars.

Question. Did you receive it from Captain Gibson?

Answer. Yes, sir.

Question. Was that before or after your imprisonment?

Answer. After my imprisonment.

Question. Where was the schooner when you last saw her?

Answer. In Batavia.

Question. What was her condition?

Answer. She was in pretty good condition.

Question. When you cleared from Pernambuco for Rio, what were you going to Rio for?

Answer. I don't know.

Question. What was Captain Gibson's alleged object in cruising around the South American coast and the East Indies?

Answer. I don't know; but I have heard him say that he liked to see all different kinds of ports in all parts of the world.

Question. How did he pay his bills at the different ports?

Answer. I don't know.

Question. How long did you remain at Batavia after you were discharged from imprisonment?

Answer. I remained for about three months.

Question. Was Captain Gibson there all that time?

Answer. He was in prison all the time.

Question. Had he left prison before you left?

Answer. No, sir.

Question. Where did you next see him?

Answer. Here in New York.

Question. Do you recollect the day of the month that William and the other hands went aft and demanded that the ship should be given up to the owner?

Answer. I do not.

Question. How long was it after you left New York?

Answer. About six weeks.

Question. Do you know in what part of the Atlantic ocean you then were?

Answer. I do not.

Question. Do you know how near the equator it was?

Answer. No, sir.

Question. Do you know the variation of the compass?

Answer. I do not.

Question. Do you know what is meant by the variation of the compass?

Answer. No, I do not.

Question. Do you know in what latitude or longitude you were when William and the hands went forward?

Answer. No, sir.

Question. Do you know the strength and the directions of the currents in the latitude and longitude in which you were at that time?

Answer. No, sir ; I don't know anything of that kind.

Adjourned to Wednesday, March 1, at 10 a. m.

MARCH 1, 1854.—Counsel for both parties present, and adjourned to March 2, at 10 o'clock a. m.

MARCH 2.—Counsel for both parties present, and adjourned to March 6, at 4 p. m.

MARCH 6.—Counsel for both parties stipulated that examination should take place at one day's notice by attorneys for defendant.

MARCH 13.—Counsel for both parties present on notice by attorneys for defendant.

Cross-examination of Henry Jones continued :

Question. At the time you say Captain Townsend was sailing to the wind, what course did he give to the officer of the deck?

Answer. Not any course that I knew of, more than full and bye.

Question. Did you hear him give that direction, or any direction?

Answer. Yes ; many times.

Question. About what course was she making at this time?

Answer. I don't know what course we were making at any time, except when I was at the wheel.

Question. State all the directions as to the course of sailing that you heard Captain Townsend give?

Answer. I can't say that ever I heard him give any course at all, except by the wind ; I recollect more steering courses sometimes, but what course it was I don't know.

Question. How often were you at the helm?

Answer. I would have the wheel about six hours in twenty-four hours. Each man remained at the wheel two hours at a time.

Question. Which watch were you in, the port or starboard watch?

Answer. Sometimes in each ; we never had any regular watches on board of her.

Question. How many were in the habit of steering at the helm besides yourself? Give their names.

Answer. Four besides myself ; Jack Reynolds, William, Eustachio, and Antonio, and myself ; sometimes Hoffman, the second mate, would take the wheel for an hour or so.

Question. Was this the practice from the time you left New York?

Answer. Yes, sir.

Question. At the time you left New York, were the directions to sail by the wind?

Answer. I forget how we steered when we left New York. I don't know what the directions were; whether we steered by course or by the wind.

Question. When do you first recollect hearing directions to sail by the wind?

Answer. I can't say when I first heard it.

Question. About how long after you had been out of New York?

Answer. I can't say how we steered before we got to Block Island. After that we steered mostly by the wind.

Question. Did you see much difference as to the course of steering from the time you left Block Island, up to the time of the difficulty?

Answer. I can't say that we steered the same course, or that we did not.

Question. After you left Block Island was there any change made in the directions given to the man at the helm from day to day?

Answer. Yes; there would be changes very often.

Question. What were these changes?

Answer. According to the wind; if the wind changed its course, we would change ours.

Question. Do you mean to be understood that you were sailing by the wind all the time after you left Block Island, till the time of the difficulty?

Answer. All the time I was on deck they sailed by the wind. I can't tell what they did when I was asleep.

Question. Was this sailing by the wind the cause of complaint among the crew?

Answer. Yes, sir.

Question. When did you first hear any complaint?

Answer. Soon after we left Block Island; about a fortnight or three weeks, or so.

Question. When did you first hear that the owner was on board?

Answer. I saw him come on board.

Question. When you saw him come on board, did you know that he was owner?

Answer. No more than that I was told by Jacob Hoffman that he was owner. When they came along, Hoffman pointed out Gibson, and said he was the owner.

Question. Was Hoffman the mate?

Answer. Yes, sir.

Question. How long before you left the port of New York did Hoffman come on board the vessel?

Answer. I can't recollect the time exactly; it was somewhere about a month before.

Question. Who did you hear first complain about [first] sailing by the wind?

Answer. William, one of the men.

Question. Who did you hear speak of it next?

Answer. Soon after that, everybody used to speak about it.

Question. Why was William put in irons?

Answer. I forget; I think it was some insolent word he said to Captain Townsend when he was at the wheel.

Question. Did Gibson help put him in irons?

Answer. Gibson himself did not help, but he ordered Luigi to help the others.

Question. Did William resist?

Answer. He tried to.

Question. Did you forbid Captain Gibson from interfering?

Answer. Yes, sir.

Question. How long was this before the difficulty?

Answer. It might have been three or four weeks; I cannot say.

Question. What business had you to forbid Gibson interfering?

Answer. I had no business, any more than I made it my business.

Question. Why did you forbid Gibson from interfering?

Answer. Because they were ill-using William.

Question. How did they ill-use him?

Answer. By taking hold of him and throwing him down on deck; and when he tried to get up, throwing him down again.

Question. Did they finally succeed in getting him in irons?

Answer. Yes, sir.

Question. How long did he remain in irons?

Answer. He might have been in twenty-four hours; it might have been more, but I don't think it was.

Question. Did they inflict any other punishment?

Answer. I don't know what they did to him after they got him down in the cabin.

Question. Do you know what his offence was for which he was punished?

Answer. Because he would not do duty.

Question. Did any of the others side with William besides yourself?

Answer. I did not see any one do anything.

Question. Was it generally known among all the hands that the owner was on board?

Answer. Yes.

Question. Was that a subject of conversation likewise, when complaints were made about the sailing?

Answer. Yes, sir.

Question. What change was made in the course of the vessel after Mr. Gibson took command, and before you arrived at Porto Praya?

Answer. At that time we changed our course. After Captain Townsend determined to go to Porto Praya, we steered more before the wind, as if we were making a course to go to some place.

Question. Can you state what the change in the direction of the sailing was?

Answer. No more than what I have stated.

Question. Did they put the vessel about?

Answer. I don't know.

Question. You said in your direct examination that Captain Towns-

end used to ask for directions from the sailors. Do you mean to be understood that Captain Townsend was an ignorant seaman?

Answer. He either was or pretended to be.

Question. What question did he ask that showed that he was ignorant?

Answer. When he saw a squall come, he would make sail; and when it passed over he would take in sail; sometimes furl all sail in a calm, and sometimes at night.

Question. In your opinion did Captain Townsend know how to sail a vessel?

Answer. No, sir. He did not, in my opinion, and all that were on board the schooner.

Question. Was that the alleged cause of the difficulty?

Answer. Yes.

Question. Prior to the difficulty did you hear Gibson complain of his unskilfulness?

Answer. No.

Question. Did Gibson know of the complaints of the men?

Answer. Yes.

Question. How long before the difficulty occurred, did he know of the complaints of the men?

Answer. He would often hear the men growling with Captain Townsend for three or four weeks before any disturbance took place.

Question. Did you ever hear him speak before the difficulty?

Answer. No.

Question. How do you know he knew it?

Answer. Because he could not help but hear it, when we were growling to Captain Townsend.

Question. Was Mr. Gibson an experienced seaman?

Answer. He was no seaman at all that I know of. I don't know what he was.

Question. Do you know whether he knew of this sailing by the wind?

Answer. Yes; he knew of it.

Question. Did he know of it before the difficulty?

Answer. Yes, he could not help but know from the men talking in his presence to Mr. Townsend, and seeing himself.

Question. How long before the difficulty occurred did he know it?

Answer. He could not help but know it all the time.

Question. Did you ever know of any difficulty between Captain Townsend and Mr. Gibson prior to their arrival at Porto Praya?

Answer. None in my presence.

Question. Did you hear of any on board ship?

(Objected to by defendant's counsel.)

Answer. No, sir.

Question. Was there any other cause of complaint against Captain Townsend, among the crew, than that of sailing by the wind, as you have stated?

Answer. No other cause that I know of.

Question. Did you go aft with William when the difficulty occurred?

Answer. I was at the wheel when all the rest came aft.

Question. Was not Hoffman at the wheel?

Answer. No, sir. I was at the wheel myself. I relieved Hoffman.

Question. Did not Hoffman relieve you, and was it not just after breakfast that this occurred?

Answer. Hoffman relieved me to get my breakfast, and then I relieved him afterwards.

Question. Did the difficulty occur immediately after you got your breakfast?

Answer. I think it did, but I am not sure that it was directly after breakfast.

Question. What did William demand when he went aft?

Answer. To know where Captain Townsend was bound to.

Question. What reply did Captain Townsend make?

Answer. Said he was bound to Bahia.

Question. What reply was made to that, and by whom?

Answer. The reply was made by William, that we should never get to Bahia the way we were sailing.

Question. What took place then?

Answer. William demanded Captain Townsend to go into some port, and wanted the owner to take charge of her, or to see that she would get into the nearest port.

Question. What took place then?

Answer. William wanted to know who was the owner, and Captain Townsend said that Mr. Gibson was the owner. Then Mr. Gibson brought up his papers belonging to the schooner. Mr. Gibson showed all hands that he was sole owner of the schooner. Then Mr. Gibson was asked if he would see that we would get into the nearest port. He said he would. Then it was decided to go to Porto Praya, and all hands went forward.

Question. Was anything said about giving the schooner in charge to the owner by any one?

Answer. No more than what I have stated.

Question. State distinctly what was said, if anything, about giving the schooner in charge to the owner?

Answer. William asked Mr. Gibson if he would take charge of her, and Mr. Gibson said he would see that she went a right course to Porto Praya.

Question. Did not William know, prior to the difficulty, who was the owner?

Answer. He did not know for certain that Mr. Gibson was the owner, but thought he was.

Question. Where was Captain Townsend when Gibson went after the papers?

Answer. Standing by the companion.

Question. Did he go down with Gibson?

Answer. I am not sure whether he went down, but I think he staid on deck until Mr. Gibson came up.

Question. What papers did Mr. Gibson exhibit to the hands?

Answer. The schooner's articles and her register. I could not say how many papers there were. He read some of them to us; how much was paid for the schooner, and what had been put into her by repairs, and several other things that I forget.

Question. After he had read these papers, what occurred?

Answer. He had read the papers before we had settled for him to take charge of the schooner.

Question. What was Captain Townsend to do?

Answer. He was to do the same that he did before, only that Mr. Gibson was to see that he went the right course to Porto Praya.

Question. Did Captain Townsend act as sailing-master, after the difficulty and before the arrival at Porto Praya?

Answer. Townsend acted as sailing-master, but allowed William, during his watch, to make and take off sail when he thought it was required.

Question. What are the duties of a sailing-master?

Answer. I always understood that a sailing-master of a vessel was he that took off or made sail as he thinks proper. I do not know whether a sailing-master has anything to do with the navigation.

Question. Does the sailing-master work up the ship's reckoning?

Answer. I don't know.

Question. Did you ever see William work up the ship's reckoning?

Answer. I don't think he could if he wanted to. I never saw him do it.

Question. Was there any other person on board who could work a ship's reckoning besides Captain Townsend?

Answer. I don't know whether Hoffman could or not. He was the only one I think could, except Mr. Gibson.

Question. What do you understand by working up a ship's reckoning?

Answer. Ascertaining where she is, and how far she has gone.

Question. Could Captain Gibson work up a ship's reckoning?

Answer. He said he could.

Question. When did he say he could?

Answer. One day William or myself asked Gibson how far we were from Porto Praya, and he said four hundred miles. I asked him if we were going the right course for Porto Praya, and he said we were five hundred miles; for he had just been reckoning up how far we were, and what was the right course.

Question. Was that the only time you heard him speak of it?

Answer. I think it was.

Question. How long was that after the difficulty?

Answer. I think it was the next day, but am not sure.

Question. After they started for Porto Praya, did the hands have any difficulty with Captain Townsend?

Answer. No; we had no difficulty.

Question. You say that the hands growled at Captain Townsend prior to the difficulty. Did they make any specific complaint to him?

Answer. Yes, sir.

Question. What complaint did they make?

Answer. The complaint was about working the vessel.

Question. What complaint did they make about working the vessel?

Answer. They would say to Captain Townsend, when he went to take sail off, that it did not want to be taken off.

Question. Did this occur often?

Answer. Every day.

Question. Did they make any other complaint?

Answer. They made some complaint about the victuals.

Question. What complaint was that?

Answer. That we did not get enough to eat, and what we did was dirty and not cooked.

Question. Did they make this complaint to Captain Townsend?

Answer. Yes.

Question. What reply did he make?

Answer. He said he could not help it; that it had not come to our turn to live aft.

Question. Did the hands make any other complaint, except as to taking in sail, and about the victuals?

Answer. No, sir.

Question. Did they complain about putting on sail?

Answer. Oftentimes we would not do it.

Question. Why wouldn't you do it?

Answer. Because we would not trust our lives to him.

Question. How early in the voyage did you refuse to put on sail?

Answer. It was about a fortnight or so after we left Block Island.

Question. Did you ever know the hands to refuse to furl sail?

Answer. No, sir; I never knew them to refuse to do anything but to make sail in squally weather.

Question. Who went on shore first at Porto Praya?

Answer. Mr. Gibson and Captain Townsend.

Question. Did they go on shore together?

Answer. Yes.

Question. How long was it you arrived before Mr. Whittlesey went on shore?

Answer. Mr. Whittlesey and Captain Townsend went on shore the next day.

Question. When Captain Townsend and Mr. Whittlesey went on shore, did Mr. Gibson remain on board?

Answer. Yes.

Question. After Mr. Whittlesey went on shore, did he return again before he went to get his trunks?

Answer. Yes; he came aboard that night.

Question. When did he go ashore again?

Answer. The next morning.

Question. How long did he remain on shore that time?

Answer. He did not come on board until he came for his trunks.

Question. What reason did Mr. Whittlesey give for leaving the ship at Porto Praya?

Answer. I don't know what was his reason.

Question. Did you hear of his trunks being broken open on board? (Objected to, as hearsay.)

Answer. No; I did not.

Question. Did you see Mr. Whittlesey go ashore when he came for his clothes?

Answer. Yes, sir.

Question. Were his clothes in a trunk, or a basket?

Answer. I forget what his things were.

Question. Did you ever see any article of apparel in Gibson's possession with Whittlesey's name on it?

Answer. No, sir, I never did. The name might be on a thing without my knowing it.

Question. Did you ever see any articles of wearing apparel, or anything else, among the hands, belonging to Whittlesey?

Answer. Yes; when we went to Macaio, all the men's trunks were overhauled, I think, by the English consul, and several things that Mr. Gibson stated belonged to Mr. Whittlesey and Captain Townsend, and a couple of silver cups belonging to Mr. Gibson, were found in the chests of the sailors that were put in prison.

Question. Enumerate some of the things that belonged to Mr. Whittlesey and Captain Townsend.

Answer. There were some coats—I forget how many—and boots, and some shirts, and something else—I forget what it was.

Question. How long after the men were imprisoned was the search made?

Answer. I forget; but it was before they sent the things ashore.

Question. Did Gibson retain the things that belonged to Captain Townsend and Whittlesey?

Answer. He distributed all among the hands, and said they were no good to him.

Question. Are you the only one of the hands that left New York, and went the whole voyage with Captain Gibson?

Answer. Yes.

Question. What became of the chronometer and sextant?

Answer. I don't know.

Adjourned to Tuesday, 14th inst., at 10 o'clock.

E. W. MARSH, *Plaintiff's Attorney.*

MARCH 14, 1854.—Counsel for both parties present. Examination of Henry Jones continued:

Question. What was the first land you saw after leaving Tristem d'Acunha?

Answer. We saw an island by the name of St. Paul's.

Question. How far were you from it?

Answer. We sailed right around it; about half a mile off.

Question. Did any one go off to it; and if so, whom?

(Objected to as irrelevant.)

Answer. Not that I know of; it was calm weather at that time, and we had the boat down most fine weather; the boat might have gone ashore unbeknown to me.

Question. What land did you see next?

(Objected to as irrelevant.)

Answer. I believe it was the island of Sumatra.

Question. How near did you approach it?

(Objected to as irrelevant.)

Ex. Doc. 16—6

Answer. We went close to it.

Question. Did any one go on shore, or come off to the schooner?

(Objected to as irrelevant.)

Answer. Mr. Gibson went on shore.

Question. How long were you off that shore?

(Objected to as irrelevant.)

Answer. The day Mr. Gibson went ashore was a calm, and he went ashore while it was calm.

Question. What place was it?

(Objected to as irrelevant.)

Answer. I don't know.

Question. How long did you lay there?

Answer. We did not lay there, except that there was no wind to go ahead; we did not let go the anchor.

Question. How long were you off the shore of Sumatra before you entered Mintauk?

Answer. I could not tell; it was no more than two or three days; it might have been a week.

Question. How near were you to the shore during that time?

Answer. We were very near to the shore.

Question. Did any one go off from the vessel, or come to the vessel from the shore, during that time?

(Objected to as irrelevant.)

Answer. There was a large canoe came off; there were Malays in it; no one went off from the vessel until we got to Mintauk.

Question. When you left Mintauk where did you sail?

Answer. We sailed first across the bay to an island; don't know its name.

Question. Where did you go next?

Answer. To Palembang.

Question. How near were you to the shore on your way to Palembang?

(Objected to as irrelevant.)

Answer. This was a river we were going up, a fresh-water river; sometimes a mile, sometimes half a mile, and sometimes less.

Question. How far did you ascend the river?

Answer. I believe it was about thirty miles up.

Question. How long were you ascending it?

(Objected to as irrelevant.)

Answer. We were about a week from the time we left Mintauk till we got to the place of anchorage.

Question. Did any one go on shore?

(Objected to as irrelevant.)

Answer. Mr. Gibson and a Malay servant, and one of the men, went on shore.

Question. How much of the time you were ascending the river was Captain Gibson on shore?

(Objected to as irrelevant.)

Answer. I can't say that he was on shore more than once.

Question. Do you know that he did not go on shore more than once?

(Objected to as irrelevant.)

Answer. No, I can't be sure; what makes me recollect of his going on shore this time, was that he took a gun on shore and killed some birds and brought them on board.

Question. How long were you in Palembang before the arrest?
(Objected to as irrelevant.)

Answer. I am not sure whether it was a fortnight or three weeks; it was little over either a fortnight or three weeks.

Question. Where were you while in Palembang?

Answer. I was in the vessel.

Question. Do you know the name of the river on which Palembang stands?

Answer. I never heard any other name than Palembang river.

Question. Do you recollect of Capt. Gibson's bringing off any curiosities to the vessel before you arrived at Mintauk?

(Objected to as irrelevant.)

Answer. He brought a green bush off that he kept in the cabin.

Question. Was the boat off during the time you were ascending the river?

Answer. Yes; the boat was off to the barque "Jane." We were in company with her going up the river.

Question. Was Captain Gibson absent from the vessel for any considerable time while at Palembang?

Answer. He would generally be away for two or three days. He only came on board when he wanted something, or came on board with company.

Question. Do you know what he was doing during that time?

(Objected to as irrelevant.)

Answer. No, sir.

Question. Do you remember going with the hands of the Flirt to any office in the city of New York before sailing; and if so, what office was it?

(Objected to as irrelevant.)

Answer. I recollect following some of the riggers on board to an office somewhere in Broadway; don't recollect what office it was.

Question. What did you go there for?

(Objected to as irrelevant.)

Answer. I went to get my pay for work on the schooner.

Question. Did you know Captain Gibson at that time?

Answer. No, sir; I did not.

Question. Do you know whether he was at that office at the time you were there?

Answer. I did not go in the office; I stood outside. Saw nobody in the office. The boss rigger said he got no money, and so we all went away.

Question. Do you know of any baggage having been brought on board while at Jersey City?

Answer. There was some baggage brought on board there. Don't know who brought it.

Question. Where did Luigi come on board?

Answer. At Jersey City.

Question. Did he bring any baggage on board?

Answer. I don't know.

Cross-examination resumed by counsel for plaintiff.

Question. How often did Mr. Gibson give parties on board the Flirt at Palembang?

(Objected to as irrelevant.)

Answer. Sometimes gentlemen would come on board and have dinner with him. But we only had one grand party.

Question. How many times did he dine on board the Flirt there?

Answer. That is more than I can say.

Question. Was it very often?

Answer. No, sir.

Question. Did you see him daily before his arrest?

Answer. No, sir.

Question. How often did you see him during the two or three weeks before his arrest?

Answer. Once every two or three days.

Question. Were you arrested at Porto Praya?

(Objected to as opening a subject not referred to in the re-direct examination.)

Answer. No, sir.

Question. Was not the vessel taken possession of by the authorities? (Objected to for same reason.)

Answer. Not that I know of.

Question. Did not the officers come on board and remain there?

(Same objection.)

Answer. Officers came on board, but did not remain.

Question. You have said in your direct examination, that Captain Townsend said to Mr. Gibson, "I have gone too far; pray forgive me." What reply did Gibson make to that?

(Same objection.)

Answer. Mr. Gibson said, "It is your own fault." That is all I heard. They then went down in the cabin. The officers did not go with them at that time; but they went down afterwards.

Counsel for defendant puts the following

Question. Was that remark of Captain Townsend, referred to in the last cross-interrogations, made when he was first arrested at Porto Praya, or afterwards; and if so, at what time was it made?

Answer. It was after the officers had gone on shore, and had come off again; and after that Captain Townsend came off in a boat. It was some time in the evening.

Question. Was Captain Gibson under arrest at the time the remark was made?

Answer. I can't say.

Question. Had Captain Gibson been on shore and returned before it was said?

Answer. Yes.

By counsel for plaintiff:

Question. What time of day was Gibson arrested?

Answer. It was some time in the middle of the day.

Question. Was this remark made the same day of his arrest?

Answer. Yes.

Question. Were there soldiers on board at the time the remark was made?

Answer. No, sir.

Question. Were there soldiers on board afterwards?

Answer. No, sir. There were none on board afterwards.

HENRY JONES.

Subscribed and sworn this 15th day of March, 1854, before me,
JNO. DUER.

[Exhibit A.]

NEW YORK, *April* 16, 1850.

Schooner Flirt and owners,

To Henry Jones.....Dr.

For services rendered 10 $\frac{3}{4}$ days, at \$1..... \$10 37 $\frac{1}{2}$.

Received payment in full for all claims against captain and owners.

HENRY JONES.

Witness:

J. McCARTY.

Endorsed:

A. J. W.

E. W. M.

NEW YORK SUPERIOR COURT.

FRANKLIN W. WHITTLESEY }

against

WALTER M. GIBSON. }

The above examination was duly taken and subscribed, and may be filed and read by either party [party] on trial of this action.

EDWARD W. MARSH,

Plaintiff's Attorney.

WILLARD, SWEENEY & ANDERSON,

Attorneys for Defendant.

NEW YORK, *March* 14, 1854.

STATE OF MASSACHUSETTS, }
City of Boston, County of Suffolk. }

I, Gorham F. Bassett, of the city of Boston, Massachusetts, now commander of the American ship "Daniel Sharp," do hereby certify that on or about the 15th of February, 1852, I was at the city of Batavia, on the island of Java, and there saw the American schooner "Flirt" brought into the roadsteads of the port by the Dutch government steam-

er the "Arjuno." A few days after the arrival of the "Flirt" I went, in company with Mr. E. W. Cramerus, the acting United States commercial agent at Batavia, to visit the owner and commander of the schooner, Mr. Walter M. Gibson, whom I found in the civil and military prison of Weltevreden, near Batavia, where he, along with his officers and men, had been incarcerated upon a charge of "high treason."

I found Mr. Gibson in a small room, about fourteen feet long by twelve feet wide, and adjoining cells in the same ward or enclosure which were occupied by condemned felons of the lowest character.

A few days after this visit, on or about the 22d of February, I saw Mr. Gibson at the house of Mr. E. W. Cramerus. He (Mr. Gibson) had just been liberated from prison, and came to announce his freedom. I then understood that this liberation of Mr. Gibson had been ordered by the local court of justice of Batavia, in consequence of the illegal manner in which Mr. Gibson had been arrested by the governor or resident of Palembang.

I saw Mr. Gibson, during a portion of three days, at large in the city of Batavia. He lodged during the time at the Rotterdam Hotel, where I also was residing. I know that, during this period of enlargement, many suggestions were made to Mr. Gibson, by gentlemen of Batavia, recommending him to attempt his escape from the island, as he was assured that he would most likely be re-arrested by order of the attorney general; but Mr. Gibson invariably refused to make any attempts to depart, otherwise than openly and with his vessel.

On the third day after his liberation, Mr. Gibson, whilst dining with me and some of his friends at the Rotterdam Hotel, was arrested, by an order issued by a judge commissary, at the requisition, as I understood, of the attorney general, Mr. Wymallen.

I accompanied Mr. Gibson to prison. He was placed, on this occasion, in one of the cells of the city or stadius prison, a place of confinement in the most unhealthy part of Batavia, and appropriated to native and colored felons only.

I observed no other accommodation in the cell but a rude platform of rough plank, to answer the purposes of table, bed, and chair. The cell was not more than twelve feet long by ten feet wide; but the actual space for movement, clear of the platform, was not more than ten feet long by six feet wide. The place was close, damp, and pestilential.

Feeling indignant at this treatment of a countryman, and of a man merely suspected of a political offence, I called upon Mr. De Wal, the fiscal, or prosecuting officer at the court of justice of Batavia, also upon the judge commissary, Mr. Schussler, and upon other officials. I made a solemn protest, in the name of my country and government, against this treatment of a citizen of the United States and commander of an American vessel, upon which, after much solicitation, I was finally assured that Mr. Gibson should be removed to better quarters, which was done by sending him back again to the prison of Weltevreden, which, however, was little better than the other prison, except in respect to the healthiness of the location.

I saw Mr. Gibson frequently at the prison of Weltevreden, during a stay of a few weeks at Batavia. I understood that he had been recommended by Mr. Alfred Reed, United States commercial agent at

Batavia, by Mr. E. W. Cramerus, the acting agent after Mr. Reed's departure for the United States, and by his counsel and his friends generally, to address a memorial to the governor general, in which, though denying the charge of "high treason," he should admit the imprudences of manner or language he might have fallen into in consequence of his ignorance of the country, and throw himself upon the good offices of the governor general to stay the proceedings of justice, and allow him to depart with his vessel. It was believed by these counsellors of Mr. Gibson that the governor general was anxious for an excuse to make a quiet disposition of the affair. In consequence of this, Mr. Gibson addressed a memorial to the governor general of Netherlands India, accompanied by many vouchers, of which I was cognizant.

When I left Batavia in March, 1852, Mr. Gibson was still in prison. On my return again to that city in May, 1853, I learned from the United States commercial agent, and from various authorities at Batavia, that Mr. Gibson had been confined in prison from the time I left in March, 1852, till the 24th April, 1853, on which day I understood that he escaped; and that had he not done so, it was the intention of the governor general and attorney general to have had him put to death.

I understood also from the authorities I have mentioned, that Mr. Gibson's case had been twice acted upon by the court of justice in council, and they had declared, after both of these judicial investigations, that they could find no grounds upon which to base an accusation of high treason and to bring him to trial. These decisions were overruled by the supreme court of Netherlands India, (a secret tribunal,) at the requisition of the attorney general, Mr. Wymallen. Finally, I understood that Mr. Gibson was arraigned in open court on the 14th February, 1853, and after a trial of several days was acquitted by the court of justice of the charge of "high treason," though found guilty of many alleged hostile acts and speeches against the peace of Netherlands India. Notwithstanding this acquittal, Mr. Gibson was retained in prison by order of the attorney general until the time of his escape. All this which I speak of as having happened during my absence from Batavia, was the subject of undisputed notoriety among the European residents of that city.

On my departure from Batavia on the 7th day of June, 1853, I saw the schooner *Flirt* lying in the roads of Batavia, alongside of a Dutch guard-ship, and in charge of Dutch sailors or marines.

GORHAM F. BASSETT. [SEAL.]

Sworn to before me this 18th day of March, A. D. 1854.

[SEAL.]

EDWD. A. DEXTER,

Notary Public and Justice of the Peace.

Boston, March 18, 1854.

MY DEAR FRIEND: I have just received your note of the 15th inst.; also the deposition, to which I freely subscribe my name, Gorham F. Bassett, as it is all true to the letter, and much more might have been said in it in vindication of your just cause.

You have asked several questions : first, the condition of your vessel. I can truly say that she is now (after her long detention in a tropical climate without any care) almost worthless ; sails all rotten and everything allowed to go to wreck and ruin ; so if they give her back to you, she is not worth the acceptance.

You ask about your mate. He is still to undergo the ordeal adjudged him—say only commuted from “*death*” to a half-hour under the gallows, and then twelve years on the roads or the tin mines of “*Banca*,” a mitigation more fearful than death itself ; were it myself I should prefer the former.

Poor Hughan has been harassed to death by those sharks, they laying all the blame upon him, but could not trap him ; he is a good fellow, although poor, and I trust, should you be fortunate, that you will not forget the many kindnesses rendered you.

I leave here for Australia and India to-morrow ; and having such a multifarious amount of business in fitting out so large a ship for so long a voyage, you will excuse my brevity. Had I time, I could give you a volume of stories circulated at Java—“*but it was rich* ;” universal pleasure was stamped upon native as well as European at the grand jubilee the next day after the movement made by you ; but only the eyes dared to tell, as you know the Dutch policy, (nothing amiable in it, as you know to your sorrow,) and I hope you will make them pay well. It was lucky you had such a strong constitution, or you would have had a few feet of prison-earth above your head, and then no question would have been asked, and that would have been a pleasure “*to those beauties*.” But God is the arbiter of justice and mercy ; look to Him in the hour of trouble and he will see you justified. I always supposed that law was founded upon equity and justice, but I find to my sorrow that these do not compose any part of law.

You ask about many of those varied natives of the Indian Archipelago. I could give you, from my personal experience in trading to all the groups for the past sixteen years as a commander and supercargo, many stories from actual knowledge, that, told to those here who have never known only the outline of the history of that immense country, to them would appear “*Munchausen* ;” so I hold my tongue, but keep my notes of them. I only pity their ignorance, but to myself it is a source of much pleasure to compare notes and observations with my old friends and traders in the East.

I have just completed my fifteenth voyage to the eastward of the Cape of Hope.

Trusting that you will meet with all the success and happiness that poor humanity can meet in this *mundane sphere*, I remain your true friend and well-wisher,

“*Taba Tuan*”—“*Taba*.”

GORHAM F. BASSETT.

Captain WALTER M. GIBSON,

Care of Messrs. Willard & Anderson, 289 Broadway, New York.

As I leave here to-morrow, I bid you farewell for a season of fourteen months.

G. F. B.

Mr. Belmont to Mr. Marcy.

[Extract.]

[No. 17.]

LEGATION OF THE U. S. AT THE HAGUE,
May 5, 1854.

In regard to the Gibson claim, I am expecting your further instructions in reply to my despatch of 5th March, No. 16; because, in the present position of the affair, I cannot press it any further than I have done, until I am in possession of your definitive views in the matter.

Mr. Marcy to Mr. Belmont.

[No. 14.]

DEPARTMENT OF STATE, WASHINGTON, DOES
June 3, 1854.

SIR: Your despatches to No. 17, inclusive, have been duly received at this department.

Captain Gibson having been permitted to peruse your No. 16, and the documents which accompanied it, has reviewed the subject of his claim against the Dutch government at considerable length in a letter dated the 26th ultimo, which you will receive herewith. Since then, conceiving that he may be serviceable to you in the prosecution of this claim, he has determined to proceed as expeditiously as possible to the Hague; and he is charged with the conveyance of this communication and its accompaniments to you.

It is scarcely necessary that I should reassure you of the desire of this government to have the wrongs complained of by Captain Gibson speedily and amicably adjusted.

You are now instructed to press the matter, temperately but resolutely, upon the Dutch government; urging immediate and ample reparation for the outrages committed.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

AUGUST BELMONT, Esq., &c., &c., &c.

Captain Gibson to Mr. Marcy.

WASHINGTON, D. C., May 26, 1854.

SIR: Your communication of the 1st May, addressed to Pendleton, South Carolina, after being variously addressed to intercept me, only reached my hands on the 23d instant, on my return to this city.

Having, with the permission of the department, perused the documents referred to in your note, I take the liberty of expressing the satisfaction that I have felt on learning of the very prompt and energetic measures set on foot by the department to enforce my claim against the Dutch government.

I have been particularly gratified by a perusal of the despatch transmitted by Mr. Belmont to that government, under date of 5th of March, 1854, in which some of the most important points of my case are discussed with great clearness and ability.

I beg leave to call the attention of the department to one or two other topics intimately connected with those discussed in the despatch above alluded to, and which present a view of the case affecting not only my own interests, but those of our commerce at large.

First. The existence of a system of government espionage, cloaked by an apparent hospitality, that surrounded me from the moment of my arrival at Mintok, and continued until my escape from Batavia.

Second. The imposition upon me of government spies for my servants, accomplished through the apparently friendly recommendation of those professing only a "frank hospitality."

Third. The direct agency of these spies in producing those complications that led to my subsequent incarceration.

Fourth. The determination of the government to convict me of crime by the undue importance attributed to unimportant, trivial, and even improbable circumstances.

My experience of this government espionage is not peculiar; its existence is known and apprehended by all navigators other than the Dutch in the Eastern seas. It is a part of the jealous system practised by the government of Holland, to guard its Eastern monopolies as well by the creation of embarrassment and apprehension, as by the infliction of penalties for the violation of its severe maritime police. This was made a subject of complaint by Mr. Balestier, late envoy to Southern Asia, in a communication to the Department of State, under date January 26, 1851.

By referring to the evidence of Dirk Francois Schaap, resident of the island of Banca, as it appears in the minutes of the testimony taken on my trial of February, 1853, page 2, it will appear, that from the moment of my arrival at Mintok, without any reasonable grounds for suspicion, orders were issued for the search of my vessel, upon the assumption that she was engaged upon some unlawful enterprise. That no other reason existed for this, except a jealousy reaching to all foreigners, particularly Americans, is apparent from the testimony of Petrus Kamp—page 5—whose account of my conduct while in Mintok, sustained by that of Johannes Henrics Mentz—page 9—frees it from every circumstance of suspicion. The testimony of Lent Boy Yensen—page 11—who executed the search under the directions of the resident, as above stated, gives additional information on this subject.

But notwithstanding the inability of the officials to establish any complaint against the "Flirt," the authorities of Mintok found the means of intruding into my service one of the resident's secret police—one Bahdoo Rachman—who, during the entire period that he was in my service, and afterwards during the trial, upon which he was a witness, he was in the actual employ of the government as a police runner, whilst ostensibly in my employ as a servant. The circumstances under which this man came into my service are these: I applied to the captain of the port at Mintok to recommend to me a native

servant to wait on me in my cabin during my stay in the Eastern seas; the result of which was, Bahdoo Rachman, a government spy and policeman, was furnished to me. For the verification of these facts I refer to the testimony of Kamp, page 5; Mentz, page 9; and of Bahdoo, page 24.

After arriving at Palembang, being desirous of obtaining another servant, I employed, upon the recommendation of resident De Brauw, the native Moonchwa, who subsequently appeared to have been a policeman immediately attached to the resident: thus another government spy was intruded into my service, while I was engaged in exchanging civilities and entertainments of apparently the most cordial character, with the very person whose spy was imposed upon me. The action of the Dutch officials in this respect was a gross breach of hospitality and good faith, and an insult to the national flag. The evidence of the character of Moonchwa will be found at page 20 of the minutes of the trial, of February, 1853. Thus surrounded by the spies of the government through the artifices of its chief functionaries, without the occurrence of any circumstance calculated to awaken suspicion, it is evident that a plan was on foot to entrap me into some cause of complaint which would justify the most rigorous proceedings. My crime was that I belonged to a bold and adventurous nation, whose energy was apprehended as dangerous to Dutch rule in the East. The ground of this severity—that, having no cargo to justify the charge of being a smuggler, I must of necessity be a revolutionist, though without arms or other material means to jeopard Dutch sovereignty in the East.

The ingenuity of the Netherlands India government succeeded at last in confronting me with a letter to the Sultan of Jambee.

This letter is the only ground for the charge of high treason preferred against me. In its conception, its execution and style, the most puerile and imbecile concoction of absurdities that ever emanated from the brain of a Malay scrivener, it is unworthy of a moment's consideration; and is very properly characterized by Mr. Belmont as little worthy of attention as the vagaries of a madman. Had I really concocted and despatched such a letter, knowing its contents, with the expectation of producing a favorable impression upon the person to whom it was addressed, the absurdity of the attempt would have been beneath the notice of any government, and would have entitled me to no other consideration than that of pity for one bereft of common intelligence. But as strange and absurd as was this production of an ignorant Malay, there are circumstances attending its origination reflecting most seriously upon the Dutch authorities. It will be found by the testimony, that the directions given by me to the scrivener were given in the most open and unconcerned manner in the cabin of my vessel, and in the presence of Bahdoo and Moonchwa, and partly in the presence of Captain Valberg; that I had not the means of communicating with the writer in any language common to us both, and could only convey my ideas by pantomime, aided by a few Malay words that I understood. In addition to this, that Moonchwa, one of the government spies set to watch me, assisted in conveying what he was pleased to state was my intention, to the native writer, in the Bengalese, a language with which I was not familiar; and the writer, Kiagoos Lanang, states in his testi-

mony, at page 22, (C,) that he was assisted by both Bahdoo and Moonchwa. It must be remembered that during the entire evening when this letter was written, I was absent from the vessel, attending a Chinese wedding—a fact established by an overwhelming weight of testimony. After giving general directions in the presence of Bahdoo and Moonchwa, I left, those two men remaining with the writer for a considerable time after my departure; thus this letter, for which I stood condemned of a crime of great magnitude, was, in fact, written in my absence by a Malay, with the aid of these two government spies; and what is stranger still, there was no possible means of communicating to me what were the contents of the letter I was called upon to sign. It is stated in the testimony of Kiagoos Lanang, at page 22, that this letter was subsequently written out by him on a different piece of paper, to correct what he states to be "*some faults*." The supposition of my signing the letter as first written out, and of his having re-written the same, and having copied my signature, would account for the peculiar appearance of the signature to the paper produced against me, as described by the witnesses Andeweg and Van Heekeren, at page 32, (C.) What these faults were of which the writer speaks, and how they were corrected, I am as ignorant of as I am of the contents of the document signed by me.

If a treasonable letter was written, Bahdoo and Moonchwa are certainly more responsible for its contents than I myself; and as no mention of this circumstance was made in the judicial sentences pronounced against me, and as these two men, who, of all in my employ, were the only ones directly implicated in the affair, and were the only ones who escaped prosecution, it is evident that the government officers regarded the services of these two men as meritorious rather than censurable; or, in other words, it was a part of their duty as spies and policemen to entrap me into this very position, and then betray me to the authorities. This they accomplished before the letter was actually signed, and while sent on shore to obtain a prow, with which the mate was to ascend the river. It is hardly to be believed that these two men, so active in the discharge of their duty to their government, would, in the interpretation of my sentiments to the writer, fail to complete, in as perfect a manner as lay within their power, the evidence of the treasonable intentions that they were set to detect.

The contradictions in the testimony of these men, and of the writer Kiagoos Lanang, are so palpable, that even in the "act of accusation" proceeding from the pen of the prosecutor, fierce to hunt down his prey, are noticed as being altogether irreconcilable; and yet upon the testimony of these men, and of these alone, I was condemned.

With regard to these contradictions, a circumstance significant of the part that these men had played in fabricating the letter, is found in the fact, that, although directly charged by Lanang with having assisted in its composition, and although it appears in the testimony of Kiang Kerta Negara, page 22, that at nine o'clock in the evening the letter was written, Moonchwa repeated the contents of the letter which promised ships of war, cannon, etc., etc., to the Sultan of Jambee; yet upon the trial of my case both Bahdoo and Moonchwa pretended not to have known the contents of the letter upon the evening when it was

written. What is more natural than this denial of knowledge, if they themselves were the authors of its most objectionable features?

It is inconceivable that a letter breathing hostility and defiance to the Dutch Government could have been dictated by a rational person under the circumstances attending the writing of this letter. It is true that in the final act of condemnation, by the high court of Netherlands India, it is asserted as clearly established, that I knew the contents of this letter; yet that fact is not established by evidence; on the contrary, according to the evidence, is impossible. This statement of the court can only be regarded as an unwarrantable assumption, designed to justify an act of premeditated injustice.

I do not feel at liberty to press upon the consideration of the department the absurdities that characterize this letter. But I cannot forbear alluding to the concluding passage, a most extraordinary one, for a letter designed to inspire the confidence and secure the friendship of the Sultan of Jambee, in which I am made to inform that potentate that in a few days I should be ready to assume control of his empire, and reduce him to a condition of vassalage; and this, too, after previously informing him that in a month's time I should be at the mouth of the Jambee, without any definite statement as to what I intended to do there.

Again, I am supposed to have sent a messenger from Palembang to Jambee, in order to solicit from the Sultan of Jambee *a statement of the way of reaching him*.

Is it not, then, manifest that in attaching importance to this letter, the government have displayed their determination to convict me of crime by attributing undue importance to unimportant, trivial, and even improbable circumstances?

If, under the pretext of subjecting an American citizen to the criminal jurisdiction of a country in which he may temporarily be found, justice is in reality perverted, and the forms of law are merely employed to cloak the vengeance of a jealous government, it is an insult to our national character that cries loudly for redress; such is my case. I am accused of treason to a government to which I never owed allegiance. After repeated discharges by the responsible tribunals of the country, I am condemned (for reasons of state) by a tribunal moving directly under the eye of the executive power. I am not condemned by the judicial authorities; surrounded, involved and condemned upon the testimony of spies, acknowledged participants in the crime they were employed to detect—contradicting each other in their statements, and contradicting themselves to such an extent as to extort from the prosecuting officer the admission that their contradictions are incapable of explanation. And what is the whole subject of the prosecution? The authorship of an absurd letter, stamped with ignorance and folly. To give consequence to this alleged conspiracy to overturn the Dutch sovereignty in the East, the most trivial and absurd circumstances are laid hold of. My desire to obtain a chart of the Palembang river is deemed of sufficient importance to have a place among the solemn charges upon which my condemnation for the crime of high treason is made to rest. Even my supposed want of means is found to be an evidence of treasonable intent. The present issue with the

Dutch government presents distinctly the question whether the enterprise of our country shall be shut out from the still independent portions of the Eastern Archipelago by a system of oppression couched under the forms of justice. Such a system of exclusion is more hopeless than that of the inhospitable Japanese, for while the acts of the latter are definite and susceptible of a clear understanding, both as to their principles and consequences, the conduct of the former is calculated to invoke every question of the invasion or denial of a right in a web of diplomatic complications. The establishment of a precedent which shall convince the Dutch provincial government of the hopelessness of attempting to do, by indirect and sinister means, that which if done openly and directly would draw down upon them the indignation of our government, is of the utmost consequence to our interests in the East. To yield, at the present time, is to concede to the Dutch government a sovereignty which she has ever failed to establish by her arms, and to close the door voluntarily upon the progress of our enterprise into the fairest and richest portion of the East.

It is not necessary that I should impress upon the department the many circumstances stated in my former communications of the 22d August and 8th November, 1853, especially those bearing upon the unnecessary severity of my imprisonment. The communication to Mr. Belmont from the Minister of Foreign Affairs of the Netherlands government leaves entirely unanswered this portion of my complaint; nor does it attempt more than to affirm the impartiality of the court that pronounced the act of condemnation. It leaves out of view my repeated acquittals, and fails to inform us whether the judges who repeatedly pronounced as to my innocence are entitled to the same consideration and respect as he would have bestowed upon those who pronounced my condemnation. He leaves out of view entirely the circumstance that this was an unusual prosecution for an undefined crime, carried forward with unusual determination by the prosecuting officers, and sustained by evidence of the most extraordinary and incredible character. He seems to consider to be sufficiently satisfactory to our government to know that the proceedings were carried on by a Dutch court, without burdening itself to inquire whether those proceedings present the substance or the mere shadow of justice.

What I have repeatedly affirmed, and has not yet been contradicted, that neither in the circumstances of my trial nor incarceration have I been treated according to those principles of moderation and justice that prevail among all civilized nations; and that this is due to my being a foreigner, and especially an American. That not as an individual, but as a citizen of the United States, I have been treated with indignity, my property destroyed, and my life threatened; and this is the strength of my appeal to my government.

I have the honor to be, with profound respect, your most obedient servant,

WALTER M. GIBSON.

Hon. W. L. MARCY,

Secretary of State, Washington, D. C.

Mr. Belmont to Mr. Marcy.

[Extract.]

LEGATION OF THE U. S. AT THE HAGUE,

July 7, 1854.

I have the honor to acknowledge the receipt of your despatch of the 3d of last month, (No. 14) containing a letter of Captain W. M. Gibson, of the 26th of May, in which that gentleman reviews at length the subject of his claim against this government. Your despatch having been handed to me by Mr. Gibson himself, I have acquainted him verbally with the present position of his reclamation, and with every step which had been taken by this legation, with a view to press it upon the early action of this government, and with which he confessed his entire satisfaction.

Simultaneously with Mr. Gibson's mail, I received from the Minister of Foreign Affairs the letter to which I referred in my private despatch to you of the 24th of last month, and of which lengthy document I beg to hand you copy annexed. By its perusal you will perceive that this government attempts to refute all the statements of Mr. Gibson, and denies the justice of his claim for indemnity. I have lost no time in sending a full and detailed reply to the minister, of which I hand you also copy herewith, and by which I have, to the best of my ability, tried to disprove the arguments set forth by M. Von Hall. You will also perceive, that in conformity with the instructions contained in your last despatch, I have, in a very earnest manner, pressed a speedy settlement of Mr. Gibson's claim, which, as you will have seen by my previous communications, I have not failed to do, since first this affair was intrusted to my care. It is, however, evident that this government intends to sustain the full justice of its official's proceedings in India, and the next communication, which I may expect in a month or two, in reply to my letter, will, in all probability, not bring us one step further in the adjustment of this negotiation than we are at present.

Under these circumstances I have to ask from you some special and definite instructions in what manner you wish me to proceed, if the next communication from the minister contains, as I expect it will, a renewed refusal to admit the claim of Mr. Gibson.

Your last despatch instructs me to press the *speedy* and *amicable* adjustment temperately but resolutely. This I have done, and shall continue to do; but the very natural question arises now—what is to be done if, in spite of all my remonstrances, a settlement is refused?

I have hinted to Mr. Gibson the possible practicability of an arbitration of his case by a third power; but I cannot of course entertain seriously such an idea, or think of proposing it to this government, unless I should receive directions to that effect from you. How far the dignity of our government would admit of such a mode of settlement I must leave to your superior judgment to decide; but as the interests of Mr. Gibson would seem to call for some speedy and definite action on our part, I beg again to repeat my request that you will furnish me at an early date with the necessary instructions.

[Translation.]

THE HAGUE, June 29, 1854.

SIR: Under date of the 25th of last February, I hastened to communicate to you such information as had, at that time, been brought to the knowledge of the King's government relative to the criminal proceedings against Mr. Gibson at Batavia, the matter referred to in your communications of October 17th, January 4th, and the 4th of last March, respectively.

His Majesty's government being now in possession, through the care of the governor general of the East Indies, of a voluminous package, wherein have been collected with particular care and in the completest manner the numerous and authentic documents which, from their scrupulous correctness, establish in their true light even the least important circumstances connected with this affair, I have the honor, sir, of presenting you with a concise statement of the progress of things, such as it appears from official documents.

It will be, above all, my endeavor, sir, taking the law texts for my guide, fully to show that the legal proceedings which have been terminated by the condemnation of Mr. Gibson do not present, from the period of his arrest up to this moment, anything exceptional—that is to say, that Mr. Gibson has not been judged otherwise, under any aspect whatever, than any other person, whether a subject of the Netherlands or a foreigner, would have been judged. It will also be seen by what follows, that so far from having been treated, as he pretends, in an ignominious or brutal manner, Mr. Gibson has been, during the whole time of his captivity, the recipient of attentions which are not always shown towards accused persons.

Such a statement will suffice, I have no doubt, sir, to complete the information contained in my communication aforesaid, and to convince you of the utter want of foundation in Mr. Gibson's claim.

His arrest, in the month of February, 1852, was effected according to law, by the competent authority of Palembang.

As it was necessary, agreeably with the terms of the 40th article of the regulations concerning criminal trials in force in the island of Java, that the order of arrest should be approved within six days by the court of justice, (*raad von justitie*,) this formal act took place; but the court having refused its authorization, in consequence of informality, Mr. Gibson was temporarily set free again.

I will take the liberty to remark, sir, that in the first act of the judicial authorities, whatever may have been the considerations which caused the refusal of authorization on the part of the court relative to the form in which the order of arrest was drawn up, we already find a palpable proof of the conscientious solicitude evinced by the colonial judges for the guaranty of individual liberty.

In this, however, there could be no questions of acquittal, as Mr. Gibson has sought to insinuate. So far from having decided upon the merits of the case, the court had only refused to confirm the arrest in consequence of informality in the order; and a fresh warrant, issued two days subsequently, but this time in due form, was approved without any difficulty, and the accused were sent back to prison.

The preliminary investigation commenced; judicial inquiries ensued.

The progress of the investigation was delayed in consequence of the absence of witnesses whose testimony was necessary, and on account of an appeal for indulgence (*abolitie*) addressed by the accused to the governor general, who, according to the 390th article of the law regulating criminal proceedings, and in virtue of the power with which he is invested by the 20th article of the *règlement d'administration*, may cause prosecutions to be discontinued by a full amnesty. This appeal was rejected. The investigation was proceeded with, and in the month of August, 1852, the King's deputy attorney (*officier von justice*) moved for a discontinuance of the prosecutions. The court of justice adopted the motion. It is in this decision of the court that Mr. Gibson thought he saw a second acquittal. As in the first instance, he is deceived.

Before proceeding, it is necessary, sir, in order well to follow the progress of a criminal trial according to the laws in force in the East Indies, to note the various phases of the same. The first is that which terminates with the arrest of the party accused; which, as it has been intimated, is ordered by the competent authority; the latter must, moreover, receive the authorization of the court.

Then the preliminary investigations commence, which are closed by an order for trial. This is the second phase. Upon the requisition of the King's deputy attorney, the court issues its decree, and orders either the suspension or the continuance of the prosecutions. In both cases the King's attorney (*procureur general*) sitting at the supreme court of justice (*Hoog gerechtshof*) in the capacity of public prosecutor, the functions of which are discharged by his deputy in council, the King's attorney can, in either case, oppose the decree rendered by the council. According to the 72d article of the law regulating criminal trials, he is bound to forward his requisition, with a record of the proceedings in the suit, to the supreme court within sixty-two hours after the reception of the *dossier*, (package containing documents.) The supreme court delivers its opinion within six days, and either confirms or annuls the decree of the court of justice, directing, in the latter case, whatever may be proper to be done. Within three days after the rendering of this decree, the King's attorney sends a certified copy of the same to his deputy. If the accused is under arrest, he continues so during the process of opposition. Here again it will be seen that there is nothing like the acquittal which Mr. Gibson seems to have believed in, or, at least, sought to make believe.

Be that as it may: the order for trial was issued by the supreme court, and the accused appeared before the criminal judge, (*regter commissaris*.) Here begins the third phase, which was terminated, always in conformity with the law regulating criminal proceedings, by Messrs. Gibson and Graham being ordered for trial. Consequently, the supreme court ordered the accused to be sent back to the court of justice for public trial.

Now follows the fourth phase—that of trial in open court. This consists of the examinations of witnesses, the questioning of the accused, the requisition of the public prosecutor, the pleadings; after which the court decides and pronounces its decree.

The decree of the court of justice in the matter of Mr. Gibson was annexed to my aforesaid communication of February 25th. By that decree you will have seen, sir, that upon the motion of the public prosecutor tending to declare the two accused (Messrs. Gibson and Graham) guilty of high treason, and to condemn them, on that head, to twelve years of solitary confinement, preceded by public exposition under the gallows, and followed by perpetual banishment from the Netherlands Indies, the court admitted as proved, in law and in fact, all the acts imputed to the accused in the indictment, and pronounced a verdict of acquittal solely because it considered that these acts, in the perpetration of which the accused had only been prevented by circumstances independent of their own will, had not been sufficiently consummated to constitute a criminal attempt.

The motions here above mentioned are entitled, for two reasons, to fix your whole attention, sir. In the first instance, because the penalty required is precisely that which was applied, in the same terms, by the supreme court which pronounced the sentence of condemnation; secondly, because it is very clear that the change of the *personel* in the department of the public prosecutor, on one side, has no influence whatever on the decision of the court; and that, on the other side, it was not fraught with any consequences in regard to the accused—seeing that the motions of the King's attorney before the supreme court were perfectly identical with those of his deputy before the court of justice.

I come, finally, to the 5th and last phase of the process—for this is also an important point, sir; inasmuch as a criminal process, in the Netherland Indies, is not brought to a close by the acquittal or condemnation of the accused.

“All definite judgments pronounced by the court of justice (Raden Von Justitie) at Java, in criminal matters,” says the 282d article of the law regulating criminal trials, “are subject to the revision of the supreme court.” It is a last resort, very similar to that of the court of appeals (capation) in France, Belgium, and the Netherlands. The public prosecutor, as well as the parties accused or acquitted, can, within fifteen days after the rendering of the decree of the court, present a memorial containing the arguments for defence or attack. The deliberations take place in chamber of council, according to the provisions of the 287th article of the law.

“Should the supreme court be of opinion,” (such is the text of the 293d article) “that the court of justice has admitted, with good cause, the facts as proved, but has wrongly decided that such fact did not constitute either a crime or a contravention, or a contravention only, the decree shall be annulled—the accused shall be declared guilty of the crime or of the contravention, and the penalty provided for by the law shall be inflicted upon him.”

This is what occurs with regard to Mr. Gibson. A perusal of the decree of the supreme court—a copy of which is also annexed to my communication of the 25th of February—may convince you of this. And now, sir, allow me to sum up the facts thus:

Mr. Gibson arrived at Palembang, and enjoyed there, as a stranger, the protection granted by the laws of the Netherlands to all foreigners, whoever they may be, wherever they may come from. But, in return,

the Netherland laws, as well as the law of nations, imposed upon this foreigner the obligation of respecting the institutions of an ally of the Netherlands which gave him asylum and protection. This ally was the Sultan of Djambi. Gibson was not ignorant of the fact that at Palembang, as well as in his own country, and everywhere else, he was subject to the territorial laws, and responsible before the local tribunals for all infraction of such laws. He was guilty of a serious infraction, and was tried in conformity with those laws, and by competent tribunals.

Mr. Gibson having, in his capacity of foreigner, disputed the competency of the Netherland courts in his case, this is the place, sir, for removing all doubts upon that subject. In conformity with the most part, if not all, of modern laws, the law of the Netherlands, in this respect, makes no distinction, with regard to criminal matters, between persons belonging to the country and foreigners. They are all alike amenable to the local tribunals.

The law of nations admits the same principle. Allow me, sir, to make another quotation. I borrow it from a distinguished American diplomatist—an author whose opinion will have some weight in your estimation, and whose works on international law have justly acquired for Mr. Henry Wheaton a general celebrity as an authority. He says, in his *Elements of International Law*, (3d edition, Philadelphia, 1846,) p. 154: “Whatever may be the nature and extent of the exemption of the public or private vessels of one State from the local jurisdiction in the ports of another, it is evident that this exemption, whether express or implied, can never be construed to justify acts of hostility committed by such vessel—*her officers and crew*—in violation of the law of nations, against the security of the State in whose ports she is received, or to exclude the local tribunals and authorities from resorting to such measures of self-defence as the security of the State may require.”

He says further, page 171:

“And the laws of treason, which are binding on all persons resident within the territory, since such persons own (owe?) a temporary allegiance to the state, *may be applied to foreigners if committed within its territory.*”

The foregoing will suffice, sir, to convince the government of the United States of America that Mr. Gibson, being amenable under the circumstances to the Netherland tribunals, has been tried and condemned according to the laws in force at Java. If the deliberations of the supreme court took place in council chamber, which is what Mr. Gibson thinks he has a right to complain of, pretending to have been condemned by a secret tribunal, it is because such are the prescribed formalities of the law; and that unless Mr. Gibson pretended also that the criminal code should be remodelled in his favor, it would have been difficult, you must acknowledge, sir, to have derogated from its provisions. You do not expect, sir, from the King's government a denial which it were easy for me to give to the base insinuations of which the administrative and judicial authorities of the East Indies have been the subject, in the long memorial of Mr. Gibson. You will not expect from me a refutation of the inaccurate assertions, not to use another term, with which the long recital of his pretended misfortunes, and the

pretended iniquities he alleges to have been the object, teems. In comparing this irksome narrative with the official reports of men of integrity and loyalty, of whom the Netherland government and magistracy are proved, the government of the King, if it has not been surprised to see Mr. Gibson stooping to make such insinuations in the endeavor to justify himself, cannot avoid declaring that it was not without a feeling of painful astonishment and profound regret that it saw the American government not only give credence to, but actually sustain, the special pleadings by which Mr. Gibson has tried to deceive it.

Such is the language contained in your communication of the 4th of last March: "The utter improbability of such projects and plans as are put forth in the letter imputed to him ever entering into the mind of any man in the position and with the means of Gibson, confirms the credibility of his own account of that incident."

Taking for a moment this inadmissible hypothesis as the starting point, I may be allowed to reply, sir: "Is it less improbable that the letter which has been made the basis of the indictment was the work of Capt. Graham, on whose person it was found, or of Kiagoos Lanang, who has acknowledged he wrote it, the only persons whom Mr. Gibson himself could indicate as being, either of them, the author of said letter, and who certainly were at least equally without means as himself?"

I would reply further, sir, if it were possible to admit the improbability which Mr. Gibson alleges as a means of defence—a very weak argument, no doubt—would there be more probability in the contrary hypothesis according to his mode of reasoning; that is to say, that the administrative and judicial authorities of the colonial government itself—all the authorities, without exception—had lent themselves to the getting up of an odious machination, which would have compromised their position in the most serious manner, solely for the purpose of oppressing a foreigner whom they had begun by receiving with kindness—of making the unfortunate Gibson the victim of Machiavelian intrigues, and of wreaking upon him a vengeance as objectless as it was without cause?

But, setting aside the question of probable or improbable, I come to facts which are irrefutable.

If Mr. Gibson pretends to be the innocent victim of a decree obtained by violence, or by an unknown influence from a secret tribunal, the King's government can only give him this answer: behold the documents containing the minutes of your trial; be yourself the judge with the criminal code in your hand, and you must acknowledge that in these proceedings against you, justice has taken its course, precisely as in any other case where the accused was a Netherland subject; and that if the investigations have been protracted, it was for no other object than to fully enlighten the judges, and to afford you all possible guarantees against a condemnation not sufficiently sustained by proofs. You ought to acknowledge that from the day of your arrest to that of your condemnation, nothing has been done which was not, in every respect, in conformity with the provisions of the law, and, strictly speaking, in the ordinary course of things.

If Gibson were to retort, "the authorities of Palembang have insulted the American flag, which they hauled down on board my vessel in an outrageous manner," it would be necessary to say to him again, in reply—look at the depositions of the witnesses who were examined under oath, as well as the official reports which have reached the Netherland government. You will find that no statement of theirs—no statement whatever—sustains your assertion. Among the witnesses who were present on the occasion of your arrest, some know positively that the American flag was not hoisted on board the "Flirt" that day; others have not noticed the fact; but all declared that if said flag had been hauled down, especially in a violent or insulting manner, they would necessarily have perceived it. More than this, sir, this fact, so serious—this pretended insult to the flag of a friendly nation—to the American flag—how comes it that during the trial of Mr. Gibson, so complicated and so lengthy, the latter never alluded to the circumstance? How comes it that during his passage from Palembang to Batavia, while expressing his regrets to the commander of the steamer "Cebeles," of the royal navy, concerning what had passed, and manifesting to him his satisfaction at the attentions which had been shown him; how comes it that Mr. Gibson did not prefer any complaints then? This accusation without any show of foundation whatever, which now, on his return to America, he brings forward against the authorities of Palembang, with a view of interesting the American government in the long recital of his pretended misfortunes—this odious charge; why did he not bring it forward openly, when it could have been sustained by the depositions of those who witnessed his arrest?

If Gibson were to urge, "at least I must be indemnified for the confiscation of my vessel—my schooner Flirt," we would have to say to him emphatically, your vessel has not been confiscated. She was, on the contrary, placed under the custody of the colonial government during the whole of your trial; and it was only after your flight that the orphans' court of Batavia, (Wees Ramer,) according to the laws of the colony, took possession of the same as vacant property, and sold her publicly; that is to say, in a manner most advantageous to yourself, and in the condition she was in when you were arrested; which is to say, under the American flag. She was purchased by an Arab for the sum of 4,110f. The balance of this produce, deducting all expenses—*i. e.*, 3,400f.—has been deposited in the orphans' court, and is still there at your disposal. When you pretended to say that whatever may have been her real value, your schooner was worth to you, in the East Indies, \$50,000, we must be allowed to say in reply—this is not true, for the King's government has in its possession some authentic documents, from which it appears that you had yourself offered to sell her at Batavia for the sum of \$3,000. With regard to the other sum of \$50,000, which you claim as compensation for the bad treatment sustained by you in prison, which has been detrimental to your health, here is the letter of your counsel, describing your chamber as comfortable and spacious, communicating with an outward gallery, of which you had likewise the use, as well as the garden; being treated not as persons under indictment generally are, but as one imprisoned for debt, which at a later period enabled you to escape. In reading the details

in this letter of the life which you led in prison, which was so little like that of a prisoner, the numerous visits you received there, the facilities of communication which you enjoyed, the food you partook of, the perfect state of your health, which was never altered except on a single occasion by a trifling *indigestion*—a kind of indisposition, you must allow, which very rarely manifests itself in a prison—in reading all this, the question presents itself, what would be the use to enter into a refutation of all these allegations, not one of which is borne out by official documents—not one of which but is contradicted by your own actions, and belied by your own words? To all your assertions, relative to the bad treatment you pretend to have experienced in prison, we will simply oppose the letter written by yourself to your friend Banell, on the day of your escape, wherein you say, “*Prison life was good;*” and where you further add, “Remember me to the *good judge* we were talking about yesterday.”

Such, sir, is the language which, to a certainty, we would have the right to address to Mr. Gibson; to the American government, to you, sir, I shall merely remark, persuaded as I am that this is more than sufficient to convince you of the utter inadmissibility of Mr. Gibson’s claim, that the constitutional rule in force in the Netherlands rests upon a strict separation of the powers of the State. The judiciary power is a supreme power, the decrees of which the executive power can no more invalidate, than it can control its action or influence its decisions. The supremacy (immovibilité)* of the magistracy affords a guarantee of its independence and its integrity. The executive power, like the humblest of his Majesty’s subjects, must respect the decisions of the judiciary power and submit to them. The King’s government, therefore, cannot under any circumstances, or supposable case, allow any damages to compensate for a condemnation pronounced by competent tribunals and a legal imprisonment.

I took the liberty, sir, of sending you, with my communication of the 25th of February, besides the two decrees rendered in the matters of Mr. Gibson, several documents in support of the refutations of the grievances alleged by him. I shall only produce one of these documents on this occasion: it is a copy of the letter, the original of which, in the handwriting of Gibson and signed by him, is in my possession—the letter which he wrote to the governor general of the Netherland Indies, on the 25th of February, 1852, in which, in an humble manner, he completely confesses his fault. At that period Gibson did not dream of disputing the identity of the letter, written by his order and under his dictation, to the Sultan of Djambi, by pretending that the one which he had *signed* was written on blue paper. At that period he was far from pretending that the charges brought against him were “a forgery.” He said nothing then, either of the insult to the American flag, or about the confiscation of his vessel. You will easily be convinced, I flatter myself, sir, that Mr. Gibson’s letter to the governor general contains in itself a complete refutation to the long memorial he has thought proper to address to the American government.

* No such word recognised even by the French Academy; it means, no doubt, that which cannot be impugned or questioned.—*Translator.*

I am thoroughly convinced, sir—and for this there is no need for me to appeal to the spirit of righteousness and sincere equity which is the constant guide of your government—that the latter, on being better informed, will make allowance for the degree of credence and support to which an individual can be entitled, who, exhausted in means, suffered himself to be betrayed into the commission of a crime almost akin to madness—the consequence, no doubt, of the “high-colored romantic idea” which made him dream of the power of a “potentate in the East”—who, condemned to a grievous and infamous punishment, succeeded in evading the vigilance of his keepers, and subsequently found nothing better to do, in order to excite the interest of his countrymen, to impose upon the religious, and to curry favor with his government, than to trump up a charge of insult to the American flag against the authorities of a friendly government—a charge which is as absurd as it is destitute of foundation.

With regard to the fate of Captain Graham and the crew of the “Flirt,” I shall confine myself to simply informing you, sir, that the former, in consequence of a decree of the governor general of July 1, 1853, was pardoned the punishment of exposition to which he had been condemned, the same as Gibson, and that, shortly afterwards, in consideration of his youth and the pernicious influence which Gibson had exercised over him, he was pardoned entirely the punishment which had been pronounced against him.

The rest of the crew of the “Flirt,” who had been temporarily placed under arrest, were released on the 30th of April 1852. In conclusion, I beg leave to remark that Mr. Gibson could not have been ignorant of this circumstance, inasmuch as the cabin-boy, Antonio Perez, to whom he frequently alludes, remained, after his release, voluntarily in the service of Gibson, during the imprisonment of the latter.

You will be pleased to find herewith enclosed, sir, three packages, duly sealed, containing the papers belonging to Mr. Gibson, and, separately, a book of accounts and two small books, asked for in your communication of the 4th of last January. I beg that you will have the kindness to acknowledge the receipt of the same.

Accept, sir, the renewed assurance of my distinguished consideration.

VAN HALL

MR. BELMONT,

Chargé d’Affaires of the United States of America.

Mr. Belmont to Mr. Van Hall.

LEGATION OF THE U. S. AT THE HAGUE,

July 4, 1854.

SIR: I have the honor to acknowledge the receipt of your excellency’s note of the 29th of last month, by which you hand me three parcels containing certain papers belonging to Captain W. M. Gibson, for the restitution of which to their rightful owner I had requested you under date the 4th of January last. I have caused these papers to

be returned to Mr. Gibson, and beg to express to you my thanks for your good offices in the premises.

You mention to me that, since the date of your last communication, you have been placed, through the governor general of Netherlands India, in possession of voluminous documents, which establish in their real light the facts connected with the arrest and imprisonment of Mr. Gibson.

In thanking you for the detailed and lucid manner with which you communicate to me the conclusions to which you have arrived, after a perusal of these documents, I must be allowed to observe, that the information which you furnish, and which I have examined with all the deference and attention due to its distinguished source and the object it treats, has not at all produced in my mind that conviction of the unadmissibility of Mr. Gibson's claim for indemnity against the Netherlands government, which you predict in the beginning of your letter as the necessary consequence of your communication. While from all the documents with which I have been furnished by you, as well as by my own government, my conviction of the innocence of Mr. Gibson has only been strengthened, I regret to perceive, by your excellency's note, that you have not only arrived at a diametrically opposed conclusion, but that you impute to Mr. Gibson a total want of veracity in his recital of this extraordinary case, and the severe wrongs and hardships he has been made to suffer. After a careful comparison of the different statements of Mr. Gibson with your letters of February 25 and June 29, and the documents accompanying them, I find that there exists not the most remote ground for such an imputation; and I most sincerely regret that your well known sense of justice and generosity should have permitted you to prefer such a charge against a man whose undeserved sufferings at the hands of the over-zealous or prejudiced officials of his Majesty's government in India entitle him to all your sympathies.

In your recital of the different proceedings to which the Executive of the Netherlands Indies compelled the judiciary, before the desired verdict could be obtained, you state that the court of justice of Batavia ordered the liberation of Gibson on account of the informality of his arrest, but that in this verdict there was no question of an acquittal, as Mr. Gibson had attempted to consummate. Permit me to observe to you, that nothing in the statements made by Mr. Gibson to his government, nor in the communications which I had the honor to submit to you at different periods, justifies the charge of such an insinuation against Mr. Gibson. In referring to the statements of facts as furnished by that gentleman to my government, and of which I communicated a copy to you under date the 17th October, you will find that the circumstances of this first release are recited by him in the following words, which are entirely in accordance with your own version of this episode:

"On the 21st of February, 1852, after remaining seven days in prison, the court of justice of Batavia, assembled in chamber of council, ordered my liberation and that of my mate and men, on account of the informality of our arrest."

No other inference has ever been attempted to be drawn from this

fact, except the very just and natural one, that it was an evidence of the high-handed manner which characterized all the proceedings of the executive officers from the moment of Gibson's arrestation. This temporary liberation, which you cite as a proof of the solicitude of the authorities in Netherlands India for the individual liberty, loses, however, very much of that character which I should otherwise be most willing to accord to it, by the fact that the vessel and papers of Mr. Gibson continued to be held by the government, rendering his liberation of no avail to him.

In following with due attention your recital of the different proceedings against Gibson, during the numerous trials and investigations to which he was subjected, I can only see in it a full corroboration of the facts, such as they have been stated by that gentleman to my government, and as I had the honor to communicate them to your excellency by my notes of 17th October and 15th of January, and 4th of March last. Here are the very words used by Gibson in his recital of the first of these proceedings, which you will find by referring to the statement accompanying my first letter :

"After a long instructive or preliminary investigation of the case, during all of which I appeared *more than fifty times* before a judge commissary and the public prosecutor, *without the aid of counsel at any time*, a report was finally made by the fiscal or prosecutor, (Mr. De Wal,) to the court of justice, in which, by ample developed statements, he set forth that he could find no foundation for the charge of 'high treason,' of which I was accused by a high government officer; and in consequence recommended my liberation, which recommendation or requisition of the fiscal was acquiesced in by the court of justice, by its sentence of acquittal and discharge, of date the 25th of August, 1852."

This coincides entirely with your account of these proceedings, made in the following more concise form :

"L'instruction fut poursuivie et au mois d'aout 1852, le substitut du procureur du roi (officier von justitie) couchet, dans son requisitoire à la cessation des poursuites. Le conseil de justice adopta ces conclusions."

It was very natural that Mr. Gibson should have seen in this decision of the prosecuting officer a full and final acquittal, sustained as it was by a formal sentence of the court of justice of Batavia; nor can I admit for one moment the insinuation that he only pretended to believe in such an acquittal, expressed by you in the words—"paraît faire con ou du moires a voulee faire croire." Mr. Gibson was, and is probably at this moment, unacquainted with the manner of proceeding in the court of justice in Netherlands India, according to which a prisoner indicted for a criminal offence is subjected to two or perhaps more new trials for the same crime, of which he has been acquitted by the prosecuting officer and by a formal verdict of a competent court of justice.

This proceeding is so entirely at variance with the fundamental law of England and the United States, and is in such open contradiction with that clause of the constitution of the United States which declares "that no person shall be subject, for the same offence, to be

twice put in jeopardy of life or limb," that his error, if error at all, in believing in his final acquittal, after it had been declared by two competent authorities that he should not be prosecuted, "*cessation de poursuites*," would not only be shared by himself and the rest of the American people, but also by the intelligent portion of the subjects of every constitutional government in Europe.

In connexion with this stage of the proceedings, I beg to observe to you, that while you have been kind enough to forward to me the sentence of the court of Batavia, of 25th February, 1853, and that of the high court of Netherlands India, of 3d May, 1853, I miss, to my regret, in your communication, the verdicts of the prosecuting officer and of the court of justice, of August, 1852, just referred to.

I regret, also, not to be furnished by you with the documents, referring to what you denominate the *third* stage of the proceedings. This I regret the more, because in your short allusion to this protest of the crown solicitor, (*procureur du roi*.) which procured the re-arrest of the accused, and their indictment for a fresh trial, after a new and protracted investigation before the "*Regter Commissaris*," you omit entirely the verdict of the court of justice of Batavia, rendered under date of 22d December, 1852. This verdict, to which reference has already been made, in the statement accompanying my note of 17th October last, confirmed the two preceding sentences, by declaring that there was not sufficient grounds upon which to found an indictment, in order to bring the accused into court to be tried for the crime of high treason.

It was only after a third protest of the "*procureur du roi*" against this decision, which seems entirely to have escaped your excellency's notice, that he obtained, under date of 30th December, a decree from the supreme council, "*haute cour*," peremptorily ordering that the court of justice of Batavia should try the accused for the crime of which they had already been twice acquitted by the same court.

This public trial, which you designate as the fourth stage of the proceedings, and during which every possible exertion was made by the prosecuting officer in order to bring about a conviction, ended, like the three former proceedings, in a verdict in favor of W. M. Gibson and C. M. Graham. By this verdict, of which you have sent me a copy, the accused were acquitted of all *further lawsuits* on account of the facts imputed to them by the act of accusation. The expenses of the trial were decreed to be borne by the government, and Mr. Gibson was to be reinstated in his rights and property.

At this stage of the proceedings you direct my attention to the fact, that the punishment asked at this trial by the prosecuting officer is exactly the same which was afterwards pronounced by the high court of the Netherlands India, and you cite this as a proof that the change of person in the public prosecutor had no effect in altering the sentence of the court, or influencing the fate of the accused. I cannot, to my regret, draw any other inference from this fact, except that I find it very self-evident that the substitute of the crown solicitor should have asked the same punishment as the one claimed by his superior, acting, as he most probably did, under the direct instructions of the latter.

Besides this, it is very natural to suppose, without imputing any

preconcerted action on the part of these two prosecuting officers, that the penal code of Netherlands India prescribes a certain specified punishment for the crime of high treason; and as Gibson was tried in the two different courts for the same identical offence, the punishment proposed in the two trials became, of course, the same.

With reference to the last trial by the high court of Netherlands India, which you cite as the fifth stage of the proceedings, I must be permitted to draw your excellency's attention to the important fact, that neither in this trial, nor in the preceding ones, were any of Gibson's witnesses heard, while on the part of the prosecution an array of testimony was brought into court. The crew and second mate of the "Flirt" would have been most important witnesses in this case; but not being allowed anything for their support after they had been forcibly taken from that vessel, they were obliged by misery and disease to leave the island before the trial came on. None remained but the cabin-boy, Antonio Perez; and when his testimony came to be taken, the court did not admit it, because the public translator was not familiar with the Portuguese idiom spoken by that witness. Was it not the duty of the court to procure a competent translator, rather than to forego so important a testimony in a case in which the life and property of a stranger, the citizen of a friendly power, were implicated? and does this circumstance, in itself alone, not constitute a most striking proof of the high-handed manner with which the proceedings against Gibson were conducted?

After having thus followed you through the different stages of their proceedings, I must beg to be allowed to reply to the observations which you make, in summing up the facts of this extraordinary case.

You begin by stating that Mr. Gibson received, upon his trial at Palembang, that protection which the laws of the Netherlands accord to every stranger, but that these laws, as well as the law of nations, imposed in return, upon him, the obligation to respect the institutions of an ally of the Netherlands, by which *ally* you designate the Sultan of Djambi.

Now, I must plead my utter inability to find in any of your communications, nor in the documents accompanying them, the most remote ground upon which to found this charge, of Mr. Gibson having in any way infringed the institutions of the Sultan of Djambi. In taking even for granted that the letter written by Kiagoos Lanang to that high functionary had, with it all its absurdities, been dictated and signed by Gibson, which on all occasions has, however, been most unequivocally denied by the latter, I cannot even see in the sending of such a document, by a friendly and unarmed messenger, any disrespect to, or infringement of, the Sultan's institutions. In the reference made by the high court to the treaty with the Sultan of Djambi, I do not see anything which would constitute the sending of a letter to that personage even a misdemeanor, much less a crime of high treason; and I cannot admit for a moment that Mr. Gibson has rendered himself guilty of a serious infraction of the laws of Netherlands India by sending a messenger with what he supposed to be a friendly letter, containing nothing hostile or detrimental to the Dutch government, to an independent prince styled by yourself an ally of the Netherlands.

If Mr. Gibson had really rendered himself guilty of a criminal infraction of the laws of the Netherlands, the government of the United States would not press now his claim for indemnity for losses and hardships to which his own imprudence or criminality had subjected him. The very solicitude with which the United States guards the rights of her citizens at home and abroad, inspires her also, at all times, with a due and scrupulous regard for the rights and privileges of other nations. The fundamental doctrine of our constitution prevents even the interference of the federal government in the domestic affairs of the States composing the American Union; and I do not think that your excellency can point to one solitary instance where my government, and the people of the United States, have ever sustained the infraction of the rights and laws of other nations by its citizens. In thanking you, therefore, for the flattering manner with which you quote the authority of a distinguished statesman of the United States, the late Henry Wheaton, I cannot admit that these quotations have any bearing upon the present question, because nothing has been proved against Gibson to sustain the crime of high treason, to which Mr. Wheaton refers, in the lines quoted by you.

Arrived at this portion of your excellency's note, I find again, to my regret, a repetition of insinuations against the veracity of Captain Gibson. These, I must beg to repeat, are not justified by any of the statements made by that gentleman to my government, nor are they at all compatible with the high sense of justice and liberality which have at all times so eminently distinguished the Dutch government and people. The statements of Mr. Gibson in their general outline, as well as in their details, appear to me to have been most conclusively proved and corroborated by your communications, and the documents of the Dutch officials accompanying them. Their veracity is not impeached in one single instance, and the only difference I can perceive in the recital of Mr. Gibson, from that furnished by the authorities of Netherlands India, lies in the different light in which the same incidents are represented by virtue of a high-handed and cruel prosecution, from the one with which they have come to your knowledge by the perpetrators of this outrage.

These insinuations become the more painful, as they are coupled with the expressions of astonishment and regret on the part of your excellency that the government of the United States could not only give credence to the statements of Mr. Gibson, but had even consented to sustain the special pleadings by which, in your opinion, Mr. Gibson had tried to deceive it.

In connexion with this assertion you quote an extract of the note which I had the honor of directing to you, under date of 4th March last, and in which I gave my reasons for the utter improbability of Mr. Gibson's having entertained the hostile projects with which he is charged. Instead of following, however, the reasoning which I then allowed myself to submit to your consideration, you ask me whether it is less improbable that the letter was the work of Captain Graham, (meaning thereby, undoubtedly, the mate Graham) on whose person it was found, or that of the amanuensis, Kiagoos Lanang.

In reiterating at the time the facts connected with the dictating and

writing of this letter, I expressed my strong belief that Kiagoos Lanang, with the discharged Malay servant, Bahdoo Rachman, and Moonchwa his comrade, had substituted an entirely different letter for the one dictated by Gibson, in order to give to their denunciations a sufficient value, and to secure to themselves an adequate reward for their services.

This belief has been much strengthened with me, by additional documents which I have received from my government since the date of my last note. By referring to the testimony given at the trials, you will find that the directions of Gibson to Kiagoos Lanang were given in the most open and unconcerned manner in the cabin of his vessel, in the presence of Bahdoo Rachman and Moonchwa, and partly in that of Captain Valberg, that Gibson could not convey his ideas in any language understood by the scrivener, and had, therefore, to have recourse to pantomime, aided by a very few Malay words, which he (Gibson) understood. In addition to this, Moonchwa assisted in conveying what he called the intentions of Gibson to the native writer in Bengalese, a language which Gibson does not understand at all. Apart from the utter improbability of Gibson's dictating in so open and unconcerned a manner, before three or four witnesses, a letter containing the treasonable intentions imputed to him, the fact of his spending that evening away from his vessel, at a Chinese feast, goes very far to disculpate him. While Gibson thus passes the evening in a manner natural to his tastes and age, the three natives remain in his cabin in order to accomplish their treacherous purposes and to secure their prey.

Kiagoos Lanang states, in the testimony given by him, that he was assisted by Bahdoo Rachman and Moonchwa; and yet these two witnesses deny having at any time been acquainted with the contents of the letter. He further states having been busy drawing up the letter from seven o'clock in the evening until midnight, and that the letter was subsequently written out by him on a different piece of paper, in order to correct what he states to have been some faults. He asserts that Graham, Moonchwa, and Bahdoo Rachman, were with him during the whole time; and yet unquestionable proof has been produced, during the proceedings, establishing that neither Gibson nor Moonchwa, nor Bahdoo Rachman, were on board the greater part of the evening.

Although directly charged by Kiagoos Lanang with having assisted in the composition of the treasonable letter, and although it appears that, at nine o'clock in the evening in which it was written, Moonchwa repeated its contents, which promised ships-of-war, cannon, &c., yet, upon the trial, both Bahdoo Rachman and Moonchwa deny all knowledge of the contents of the letter. This point appears to me very significant of the part these men played in the fabrication of the treasonable document.

The contradictions of the testimony of the principal witnesses, upon which the prosecution relied for proofs to establish the charge of high treason, are so palpable, that even in the act of accusation, proceeding from the pen of the public prosecutor, they are noticed as being altogether unreconcilable. The very absurdities with which the treasonable letter produced in court abounds, go very far to prove that an intelligent and well educated man, as Mr. Gibson undoubtedly is, could

never have dictated it, and that it must be the composition of the ignorant cunning of these uneducated natives. The letter is designed to inspire the Sultan with confidence in the friendly dispositions of Gibson; and yet, in the concluding passage, he is informed that within a few days he (Gibson) would be ready to assume control of his empire; and this after previously informing him that, in a month's time, he would be at the mouth of the Djambi river! Gibson is made by this letter to send a messenger all the way from Palembang to Djambi, *in order to solicit from the Sultan information as to the way to reach him!*

In reply to your observations concerning the statements of Gibson relative to his arrest, and the insulting manner with which Lieutenant Nicolson hauled down on that occasion the American flag on board of the *Flirt*, I cannot see how the circumstance that Gibson did not bring forward that fact, in his defence at the different trials to which he was subjected, can in any way invalidate the veracity of his account. Arrested and dragged into prison for an offence of the exact nature of which he remained ignorant for a long time, tried on a charge of high treason, after having had to undergo, without the aid of counsel, for nearly a year, the most harassing investigation, it was natural that all the faculties of his mind should be concentrated upon his own individual case. Under such trials of mind and body, it is not to be wondered at, if the episode of the hauling down of the American flag should have been allowed to fall into the background; the more so as the absence of any American official acknowledged by the authorities of the island, rendered any reference to it useless, until he was able to report to his own government. Still less can I admit the supposition expressed by you that he invented this circumstance in order to interest the government of the United States in his case. Gibson, in common with all my countrymen, is sufficiently convinced of the solicitude and readiness of his government to protect and vindicate the rights of every American citizen, in even the remotest corners of the globe, and he could never for a moment imagine that any additional inducement was required in order to rouse its attention and action.

When you state that Gibson, during his passage from Palembang to Batavia, on board the royal steamer "*Celebes*," expressed his satisfaction with the treatment he had received, you labor evidently under some mistake, because it was on board the "*Arjuno*," and not the "*Celebes*," that he was brought to Batavia. The testimony of Daniel Fischer, and the affidavit of Jones, the second mate of the "*Flirt*," agree that the conduct of Nicolson was extremely insulting; and Mr. Gibson reasserts his statement, that the flag of his vessel was insultingly hauled down. In connexion with this point, it appears as a very strange feature of the proceedings against Gibson, that notwithstanding his repeatedly expressed desire to be confronted with Nicolson, he was refused that privilege; and that neither the latter, nor De Brauw, the witness of his arrest, were brought forward at his trial.

With reference to your observations in regard to the value of the schooner "*Flirt*," I should be much pleased if you would communicate to me the proofs, "*pieces authentiques*," by which you state it appears that Gibson offered to sell her for three thousand dollars. According to the statements of that gentleman, he never offered his vessel for that

price; but in a petition to the governor-general for a little money, in order to secure for himself some necessary comforts in prison, he stated that he had been offered three to five thousand dollars for his vessel, in the dilapidated state into which she had fallen since his arrest. He asked an advance from the government to the extent of one-tenth part of what had been offered to him, but was refused by the attorney-general, who was of opinion that the vessel would most probably be confiscated. I have before me the affidavit of Captain Smith, of the American ship "President Fillmore," in which that gentleman states that when he saw the schooner "Flirt," shortly after Gibson's confinement, in custody of a seaman of the Dutch navy, she was in good condition; but that when he saw her again, in the month of June, 1853, still in charge of a guard of Dutch marines, she was in a very dilapidated state.

In reply to your remarks, by which you attempt to refute Mr. Gibson's claim for damages for the hardships suffered by him during a confinement of over fifteen months, I beg to refer your excellency to the enclosed copy of an affidavit made by Captain Bassett, of the American ship "Rambler." This gentleman states, under oath, that he found Gibson in a loathsome prison, in the most unhealthy part of Batavia, destined to condemned native felons of the lowest caste.

It was only after an energetic remonstrance on the part of the captain against this cruel and unjustifiable proceeding, that Gibson was removed to the prison of Weltevreden; which is, however, described by Captain Bassett as little better than the first, except in respect to the healthiness of its location. In this prison Gibson remained from February until July, and it was only upon the arrival of the United States sloop-of-war St. Mary's that he was removed to the debtors' prison, referred to in your communication.

Permit me also to observe to you, that the information which you seem to have received in regard to the illness of Mr. Gibson must contain some gross misstatements, as it induces you to speak in a jesting way of it, as a "ligère indigestion." In December, 1852, that gentleman suffered from a severe attack of Java fever, and was treated for this most malignant disease by Doctor Töussiant, as can be proved by the bill of charges of that physician. If you would be kind enough to furnish me with a copy of Gibson's letter to Mr. Banell, from which you quote the few words, "prison life was good, and remember me to the good judge," I have but little doubt that I should be able to refute the insinuations conveyed by that quotation, as unqualifiedly as the affidavit of Captain Bassett contradicts the communications made to you in reference to the condition of the prison which Mr. Gibson occupied during the greater part of his confinement.

You hand me again a copy of a letter addressed by Capt. Gibson to the governor general, under date the 25th of February, 1852, which you had already been kind enough to transmit to me by your note of the 25th of February last. In doing so, you lay particular stress upon the fact that, in this document, Gibson does not dispute the identity of the letter dictated by him to the Sultan of Djambi, by pretending that the letter which he had signed was written on blue paper, while the one produced against him in court was on paper of a different texture.

Your excellency will, however, bear in mind that his petition to the governor general *was written before* that letter, which constitutes the only proof of his criminality, had been produced against him in court. He could, of course, not plead a circumstance of which he was at that time entirely ignorant. When the treasonable letter produced in court was first presented to Gibson, he placed a protest, in his own handwriting, on it, averring that this letter was not the one signed by him, as you will find by referring to the original of that document, of which you have sent me a copy.

This petition of Gibson to the governor general, to which a great importance seems to be attached, from the fact that I have twice been favored by your excellency with a copy thereof, was written by him a few weeks after he had been dragged into a loathsome prison, without knowing the exact crime with which he was charged, beyond a vague consciousness of having given offence to the authorities by imprudence of language, and by having infringed some of the local regulations of the Island, in sending a messenger to the interior without the required passport. In its very beginning Gibson says: "I now desire to do so without any feeling of attempt at defence, but rather to throw myself wholly upon your excellency's clemency, and that of your government."

Trusting in the magnanimity of a person holding the high position of his Majesty's supreme representative in Netherlands India, it was natural that he should have deemed it out of place to attempt a defence which, in itself, became a protest against the justice of the treatment to which he had been subjected. He had addressed a similar and more lengthy communication to the governor general, under date the 18th February, giving a full and candid history of his whole life, up to the day of his arrestation, and accompanied by testimonials of the respectability and worth of his character from persons of the highest standing in the United States, some of whom are personally known to myself. This implicit trust in the generosity and high-toned feeling of the governor general, deserved certainly a better fate than to have the confessions of his errors stated, as they undoubtedly were, with a view to give a greater merit to the imputed magnanimity of that functionary, produced as evidence of his guilt. Capt. Magruder, of the United States sloop-of-war "St. Mary's," a distinguished officer of the United States navy, in a letter addressed to the governor general, under date of 12th July, 1852, after a careful examination of all the facts and documents relating to this case, expresses his conviction of the entire innocence of Capt. Gibson, and thinks that the candor and openness of the communication just referred to, alone entitled him to a full acquittal.

All these considerations are, however, put aside; and while, according to your excellency's last communication, Graham receives an entire and full pardon on account of his youth, Gibson, who is *only two years* his senior, is treated with the utmost rigor of the law, under the direct and powerful influence of that high functionary to whose better feelings an imprudent and trusting young man had made a more than fruitless appeal.

After a most careful revision of the whole case, in which I have treated the communications of your excellency with all the deference and importance they are entitled to, I cannot but express my intimate

conviction of the entire innocence of Mr. Gibson; and I have again to press upon your full consideration his claim for indemnity of \$100,000, for the severe losses and hardships suffered by him in Netherlands India. In doing so, I rely upon the known sense of justice and equity of his Majesty's government for an early settlement of his reclamation, and the punishment of those officials who have so cruelly outraged the duties of hospitality against the person and property of an American citizen.

The instructions which I have received from my government in reply to your excellency's note of the 25th of February last, express a strong solicitude for a speedy and amicable adjustment of this claim, which in conclusion I beg, therefore, again to recommend to your earnest and early consideration.

I have the honor to renew to your excellency the expressions of my distinguished esteem and regard.

AUGUST BELMONT.

His Excellency Monsieur VAN HALL,
Minister of Foreign Affairs, &c., &c., &c.

Mr. Belmont to Mr. Marcy.

[No. 25.]

LEGATION OF THE U. S. AT THE HAGUE,
September 9, 1854.

SIR: I have the honor to hand you, herewith, copy (No. 1) of a letter addressed to me by the Minister of Foreign Affairs, under date of 31st of last month, by which that functionary asks for the restitution of certain papers, which had by mistake been sent to me with the papers of Capt. W. M. Gibson, restored to me in July last, and handed over to the latter just as I had received them.

I consequently addressed to Mr. Gibson a letter under date of 1st instant, of which you find also copy (No. 2) enclosed, and by which I recommended to him to comply with the request of the minister. Though I have not yet received a definite reply of Gibson, who is now in Paris, he has intimated to me that he intends restoring the papers not belonging to him. He has, in accordance with my suggestion, consulted Mr. Mason, our minister at Paris, as to the propriety of his doing so, and was strongly advised to pursue that course.

I have further to submit to you, herewith, copy (No. 3) of a letter of the Minister of Foreign Affairs, of 7th of this month, in relation to the claim of Mr. Gibson, and in reply to my note of 4th of July. By this note the minister persists again in his refusal to admit this claim, and sustains fully the action of the officials in Netherlands India. This unfavorable result I predicted to you in my despatch of 7th of July, (No. 20) and in anticipation of it I asked most urgently for definite instructions, what measures you desired me to take, in order to bring this affair to a satisfactory issue.

With these I have, to my great regret, not been favored by you up to this date; and being confirmed by the letter of the minister in my

conviction, already expressed to you, that an exchange of notes and arguments will not bring us any nearer to a settlement, I have for the present closed my correspondence with him, by my note of this day, of which I hand you copy (No. 4) enclosed. Without attempting even to refute therein the weak arguments which Mr. Van Hall now puts forward, in order to sustain the position which he has taken, I have hinted, as you will perceive, most unequivocally to your determination to resort to ulterior measures, in order to obtain redress for the wrongs suffered by Mr. Gibson.

Before sending this last note to Mr. Van Hall, I had an interview with him, wherein I demonstrated to him the utter fallacy of the reasoning by which he tries to render the executive irresponsible for any acts of injustice and oppression committed against a foreign citizen under the cloak of juridical proceedings.

Our interview was a very long and animated one, and confirmed me in the conviction, that unless our government intends to adopt more vigorous measures, Mr. Gibson's claim stands very little chance of ever being recognised by the Dutch government.

I have the honor to remain, with distinguished consideration, sir, your very obedient servant,

AUGUST BELMONT.

HON. WM. L. MARCY,

Secretary of State of the United States, Washington.

Mr. Van Hall to Mr. Belmont.

[Translation.]

THE HAGUE, August 31, 1854.

SIR: Among the papers enclosed in the three packages which I had the honor of sending you on the 29th of last June, and of which you kindly acknowledged the receipt on the 4th of July following, some documents appear to have slipped in which do not belong to Mr. Gibson, and which consequently the government of the Netherlands would wish to have restored to its possession.

Being persuaded, sir, that neither yourself nor your government can wish that any advantage should be taken of a mistake of this kind, I take the liberty of applying to your obliging medium, in order that you will endeavor to induce Mr. Gibson to return such documents as are not his private property; and I flatter myself the more with the hope that your application will be successful, that it was in consequence of your request, dated the 4th of January, 1854, that the government of the Netherlands hastened to give orders directing all the papers belonging to Mr. Gibson to be forwarded from Batavia to the Colonial Department, and that subsequently it had the kindness to restore the same.

I beg, sir, that you will accept the renewed assurances of my distinguished consideration.

VAN HALL.

Mr. BELMONT,

Chargé d'Affaires of the United States of America.

LEGATION OF THE U. S. AT THE HAGUE,

September 1, 1854.

DEAR SIR: I have the honor of handing you herewith a copy of a letter which has just been addressed to me by the Minister of Foreign Affairs, and by which that gentleman asks for the restitution of certain papers belonging to the government of the Netherlands, which had, by mistake, been sent to me among the three parcels of documents received for you from the ministry, in consequence of the demand I had addressed in January last for the recovery of several papers left by you in Batavia.

In communicating this request to you, I hope you will find it compatible with your interests to return to me all such papers as do not actually belong to you, so that I may hand them at an early date to the minister. You must, of course, remain the best judge whether to respond to this reclamation; but it seems to me that the dignity of your own position, and the honor of our country, would be best consulted by your not appearing to wish to profit by an oversight on the part of this government, notwithstanding the just resentment you feel at the cruel treatment which you have suffered from its officials. The favorable contrast which your conduct in this instance would thus establish with their proceedings, could, in my opinion, not fail to influence your cause most beneficially. I would advise this course the more strongly, because I do not think that it can materially alter your case, whether you or this government are in possession of the so-called "treasonable letter," you having from the beginning, and at all times, pronounced it not to be the one which you had signed. Should there be among the papers belonging to this government any documents which would tend to prove that an undue influence has been used by the governor, or by other officials of Netherlands India, towards procuring a verdict of high treason against you, then I would advise to have well authenticated copies made of them before their delivery, which would, in my opinion, serve our purposes fully as well as the originals.

As you have, however, the advantage of being in the immediate neighborhood of my much esteemed friend, Judge Mason, in whose superior judgment I have an implicit confidence, it might perhaps be best for you to consult with him in regard to this question. His patriotic and honorable impulses, aided by sound judgment and great legal experience, cannot fail to direct you to the best course for you to pursue.

Mr. Van Hall, on whom I have pressed the necessity of an early action in your case, tells me that he is preparing an answer to my last communication, which I shall receive within a few days. From what I could gather, it will not be a favorable one, and he will continue to intrench himself behind the fact that the proceedings against you have been in every respect conformable to the mode of jurisdiction in Netherlands India, and that you have been convicted by the highest court of justice of that colony.

I am still awaiting a reply from Washington to my letter of the 7th July, by which I wrote for definite instructions. These must now

arrive every day, and I hope they will be of such a nature as to admit of my bringing your reclamation to a successful issue.

I have the honor to remain, very respectfully, your obedient servant,
AUGUST BELMONT.

W. M. GIBSON, Esq., *Paris*.

Mr. Van Hall to Mr. Belmont.

[Translation.]

THE HAGUE, *September 7, 1854.*

SIR: I have had the honor to receive your letter of the 4th of July last, in reply to my communication of the 29th of June preceding, in which I had endeavored to show, resting my arguments upon the very text of the criminal code in force in the East Indies, that the proceedings instituted against Mr. Gibson, which terminated in his condemnation, have not presented any exceptional circumstance, and nothing which was not strictly in accordance with the provisions of the law.

If, in my letter of the 29th of June, I thought it proper to enter into details, it is because I desired, above all, to make you acquainted with our law, in order that both your government and yourself, sir, might be able to convince yourselves that Mr. Gibson had not been condemned without the observance of all legal formalities, and without his having been enabled to furnish the most complete defence it was in his power to make. In a revisionary proceeding the judge pronounces upon the evidence of the trial without hearing witnesses. In the primary process Mr. Gibson and his witnesses were heard.

If I have insisted upon the very notable letter of the 25th of February, 1852, in which Mr. Gibson, while acknowledging his errors, endeavors, with ability, to give them a coloring which rendered a certain degree of indulgence allowable, I did so because I was anxious, as I am now, that the government of the United States should be well convinced that one of its citizens, condemned by our tribunals, had not been lightly condemned, and that this individual himself had already, before his sentence, acknowledged his faults. If, in my last letter, I returned to the subject again, as you remark, it is because, in your letter of the 4th of March, you have thought proper to pass by the aforesaid letter of the 25th of February in silence. If, in short, in that letter I alluded to what had happened to the master's mate, Graham, it is because I desired to fix your attention upon the two following circumstances:

In the first place, an English subject having been implicated in the same proceedings, and condemned as Mr. Gibson has been, the government of her Britannic Majesty, the protection of which has never been invoked in vain by her subjects, has not presented any reclamation to the Netherland government. Yet Graham has begun to undergo his punishment, and has sought to escape, by flight, the consequences of his criminal acts, like Mr. Gibson.

In the second place, I intended to show that after his sentence, and after having spent some months in the prison to which he had been condemned, Graham has applied for his pardon, which has been granted to him. The comparison, therefore, which you draw in your letter, of the fate of those two persons, appears to me very little in the favor of the cause of Mr. Gibson. At all events, the conclusion which you draw from it is not applicable to the facts, because the question is not, as yet, of a pardon to be granted to Mr. Gibson—the latter having made no application to that effect, whilst Graham, after the sentence against him had been pronounced, solicited his pardon.

It appears to me, however, that in the state in which the discussion is at present, relative to Mr. Gibson's claims, it is my duty to avoid entering into any further examination of details, which have been stated on both sides with mutual good faith, and into which I have only entered, on my part, from a sincere desire to convince the government of the United States that, within the jurisdiction of the dominions of the King, my august master, American citizens are treated with the same justice and indulgence as the subjects of the King themselves.

I therefore take the liberty, sir, in this letter, to recapitulate and to beg that you will weigh, with your wonted sagacity and equity, the following points, which, without the possibility of disputing their correctness, are proved by authentic documents. First, Mr. Gibson, finding himself upon the territory and under the jurisdiction of the Netherlands, was condemned, after a trial conducted in conformity to the laws of the country, and with a degree of slowness and prudence, carried, perchance, to excess, to undergo a criminal penalty, which he avoided by flight. Secondly, Before sentence was pronounced, Mr. Gibson himself acknowledged his errors, in a letter written in his own hand to the governor general of the colony, the original of which is in my possession. Thirdly, Mr. Graham, an English subject, was condemned as an accomplice in the crime of Mr. Gibson, and having applied to the King of the Netherlands, has obtained his pardon, after having undergone a portion of his punishment. It appears to me, according to these circumstances, that there cannot exist the least semblance of right to damages for Mr. Gibson.

If a Netherland subject was arrested and condemned by the United States courts, for a crime committed upon the territory of those States, the government of the Netherlands could not certainly assume that such an individual was entitled to sue for damages; said government would respect the authority of the sentence pronounced by a competent judge; and hitherto the law of no country whatever has, as yet, admitted that a person condemned had a right to sue for damages the sovereign whose tribunals had pronounced against him. The only alternative left for such an individual is an appeal for pardon.

Accept, sir, the renewed assurance of my distinguished consideration.

VAN HALL.

Mr. BELMONT,

Chargé d'Affaires of the U. S. of America, &c., &c., &c.

LEGATION OF THE U. S. AT THE HAGUE,

September 9, 1854.

SIR: I have the honor to acknowledge the receipt of your note of the 7th inst., by which I see with deep regret that the government of the Netherlands persists in refusing to allow the claim for indemnity of Capt. W. M. Gibson for the cruel treatment and losses which he suffered at the hands of the officials of Netherlands India.

I shall lose no time in transmitting to my government a copy of this communication.

The several notes which I have had the honor of addressing to you on the subject, have fully developed the views entertained by the government of the United States in regard to the claim of Mr. Gibson, and I do not deem it, therefore, necessary to enter into further arguments on the subject, though I must be permitted to observe that the reasoning upon which your last note bases the refusal of his Majesty's government appears to me quite as inadmissible as that contained in your former communications.

Walter M. Gibson, an American citizen, sailing under the flag of his country, has been most cruelly and unjustly imprisoned, and despoiled of his property, by the authorities of Netherlands India; and as his rightful claim for indemnity is wholly refused by you, it now only remains for my government to take such measures for the enforcement of Mr. Gibson's claim as it may deem fit and proper in the premises.

I have the honor to renew to your excellency the expression of my distinguished consideration.

AUGUST BELMONT.

His Excellency Monsieur VAN HALL,

Minister of Foreign Affairs, &c., &c., &c.

Mr. Belmont to Mr. Marcy.

[Extract.]

[No. 27.]

LEGATION OF THE U. S. AT THE HAGUE,

September 23, 1854.

SIR: With reference to my despatch of the 9th of this month, (No. 25) I have now the honor to hand you copies of a note addressed to me, under date of 19th instant, by the Minister of Foreign Affairs, and of my answer to it, dated yesterday.

You will perceive that the minister takes some exception at the phraseology of my note of 9th instant, communicated to you heretofore, and, under the plea of his imperfect knowledge of the English language, asks for an explanation of some of the words used by me. Though I suppose that it is the word "*enforcement*" which constitutes the objectionable feature of my note in the eyes of the minister, I did not feel myself called upon to enter into any special definition of the words I had used. My reply, therefore, while it objected to the propriety of the minister's taking exception at my note, treated only in general terms the desire of the government of the United States to

cultivate friendly relations with the Netherlands; observing, however, that that wish can never interfere with the imperative duty of protecting the rights and property of American citizens. I have purposely used the word "*enforce*" again in my note of yesterday, and have invited the minister, if he wants any further definition as to any particular word used by me in my note of 9th instant, to communicate it to me. Should he (what I hardly think) carry the matter further by asking the meaning of the objectionable word "*enforcement*," then I shall furnish him with an extract of Webster's dictionary, giving about half a dozen definitions of its meaning, and leaving it to him which it may best suit his purpose to select.

In the Chambers to-day, during the discussions of the address in reply to the opening speech of the King, Mr. Van Hall gave the following explanation of the Gibson case:

He began by assuring the Chambers that this affair would not produce any interruption in the amicable relations between the Netherlands and the United States, the maintenance of which was valued in the highest degree by both governments. The minister resumed then the case, shortly, stating:

"A certain Gibson has committed criminal acts, which threatened our possessions in the East Indies. He had placed himself in communication with the Sultan of Djambi, and tried to induce that chief to undermine the Dutch authority. The judicial proceedings were carried on with the greatest moderation, and with that impartiality which characterizes Dutch judges. The trial lasted fifteen months, and after the council of justice, admitting the facts as proved, had acquitted Gibson on the ground of legal points, he was condemned in revision, for these facts, to twelve years' imprisonment. A few days before this condemnation he escaped. He had been treated with the greatest consideration—perhaps too much so, as it most probably facilitated his escape. And now this foreigner comes here and asks for an indemnity. This has led to an exchange of notes with the American government. After having furnished the necessary information, and having communicated to the American government our law proceedings, the government has insisted upon this doctrine of international law: If a foreigner commits a crime upon our territory, that fact may well carry with it a punishment, but not an indemnity."

This declaration of the minister to the Chambers confirms my assertion, made repeatedly to you, that this government does not mean to admit Mr. Gibson's claim for indemnity, unless it be compelled to do so by coercive measures.

[Translation.]

THE HAGUE, *September 19, 1854.*

SIR: By your despatches of the 9th instant you have been pleased to inform me that you would transmit, without delay, my communication of the 7th of September, relative to Mr. Gibson's affair, to the government of the United States.

After remarking, sir, that the arguments which formed the object of my communication are as inadmissible as those which had been previously produced in refutation of the claims of Mr. Gibson, you add, that there was nothing more to be done than for your government to take such measures for the enforcement of Mr. Gibson's claim as it may deem fit and proper in the premises. While abstaining, sir, from an analysis of your despatch aforesaid, and from entering into fresh explanations relative to Mr. Gibson's affair, I must nevertheless take the liberty of asking for some explanations concerning the words I have just quoted, my imperfect knowledge of the English language being probably the cause why I entertain some doubt as to their just value.

I certainly cannot bring myself to believe that those words imply a threat—the less so, that, if my government is not used to receive threats, the government of the United States has, in all its relations with the cabinet of the Hague, given too many proofs of thorough courtesy for the former to expect any such; whilst, on the other hand, the good harmony and friendship which have existed between the two states for so many years, and which at this very moment appear even to have acquired new vigor, cannot admit the supposition that the cabinet of Washington, or its representative at the Hague, would act in a manner to throw a veil of any kind over the cordial understanding (*entente cordiale*) consolidated by a community of interests from times immemorial.

I have therefore the honor, sir, to request that you will give me the explanations above mentioned, and I avail myself of this occasion to renew, &c., &c.

VAN HALL.

Mr. BELMONT,
Chargé d'Affaires of the U. S. A.

LEGATION OF THE U. S. AT THE HAGUE,
September 22, 1854.

SIR: I have the honor to acknowledge the receipt of your excellency's communication of 19th inst., by which you ask for explanation of the phrase, "to take such measures for the enforcement of Mr. Gibson's claim as it may deem fit and proper in the premises," contained in my note of 9th inst.

Conscious that I have in all my official and unofficial intercourse never violated the rules of courtesy due from the representative of the United States towards the high functionary charged with the department of foreign affairs of a friendly power, I am really at a loss to understand how my note could be construed by you as having contained anything to which the just susceptibilities of his Majesty's government could object.

It is now nearly a year since, under the instructions of my government, I brought the case of Captain Gibson to your notice; and I have, during that long period, tried to enforce his claim for indemnity by all the weighty facts and arguments which his hardships and the cruelty

practised upon him by the officials in Netherlands India had placed at my disposal.

To my great regret, you persist in refusing to give redress to Mr. Gibson for the hardships and losses he has suffered; and in your last note, of 7th inst., you even intimated that the only course left for a person situated like him, was to sue for pardon at the hands of his Majesty's government.

So far from justifying in any way the insinuations contained in your last note, the government of the United States, and I as its representative, have thus far evinced in the whole negotiation of this affair a moderation dictated only by a sincere desire to maintain undisturbed its friendly relations with the Netherlands.

The President has given a new proof of the importance he attaches to the friendship so happily existing between the two countries, by having accredited me as minister resident of the United States near his Majesty. I had the honor to apprise you of this fact some four weeks ago, soliciting the honor of an audience in order to deliver my credentials to the King, which it would seem the absence of his Majesty from this residence has prevented until now.

The United States has at all times, by a strict regard to treaty obligations and by a studious observance of the rights of others, striven to maintain unimpaired the friendly relations existing with her allies; but, at the same time, she cannot for one moment lose sight of her still more important duty to protect the life and property of her citizens, in whatever region their fate or enterprise may throw them.

As you give your imperfect knowledge of the English language as the reason of your wishing some explanation as regards the wording of my last note, I should be obliged to you if you would communicate to me the exact word or words with which you are not familiar. This would probably enable me to give you a clearer definition thereof, should you still require it after the perusal of my present communication.

I have the honor to renew, &c., &c.

AUGUST BELMONT.

His Excellency M. VAN HALL,
Minister of Foreign Affairs.

Mr. Belmont to Mr. Marcy.

[Extracts.]

[No. 29.]

LEGATION OF THE U. S. AT THE HAGUE,
September 29, 1854.

By my despatch (No. 27) of 23d instant, I had the honor to transmit to you copies of two notes exchanged between the Minister of Foreign Affairs and myself, in relation to some explanations asked by that functionary in reference to the phraseology of my note of the 9th instant.

To-day I have the pleasure of handing you copy of a note addressed to me by the minister under date of 25th instant, in which he ex-

presses in the most polite terms his satisfaction with the contents of my last communication. This is more than I had a right to expect, because I purposely avoided, in my reply to his former note, giving the desired information of the phrase used by me.

By my despatch (No. 25) of the 9th of this month, I had the honor to transmit to you copies of a letter of M. Van Hall for the restitution of certain papers delivered by mistake to Gibson, and of my letter to that gentleman communicating to him that request. Enclosed you will please find four copies, marked No. 1 to 4, relative to this same affair, by which you will see that Mr. Gibson asks for a list of those papers which have been sent by oversight, in order to enable him to give them back; to which the minister replies that he is unable to furnish such a list—the papers having all been delivered in three large parcels as they had been received from the ministry of the colonies.

He supposes Mr. Gibson could very easily distinguish the papers belonging to him from those belonging to this government; but if this should not be the case, he proposes to have them all sent to this legation, where the minister would, in my presence, separate the documents of his government from those belonging to Mr. Gibson. I have communicated this proposition to that gentleman.

On the occasion of the discussions in the Second Chambers relative to the address to the Throne, the ministry was attacked by the opposition on the ground of its conduct in the Gibson affair. Enclosed I beg to hand you a translation of the debates, by which you will see again the position which this government is so far determined to preserve in this case, and which remains as unfavorable as ever for the claim of Mr. Gibson.

In reply to the interpellation of Mr. Van Hoëvell, why Gibson had not been arrested when he was here, Mr. Van Hall thought proper to assert that that gentleman left the Hague as soon as public attention was fixed upon him. I called, in consequence of this assertion, the next morning, on the minister, and told him that he was mistaken in supposing that Gibson left for fear of being arrested; that he had no such apprehension; and that he only left for the simple reason, because, after having communicated with me fully in relation to his claim, there remained nothing further for him to be done here. He took occasion to say that he hoped he would not return, as he would be arrested if he did. To this I took at once exception, and said that if such a thing occurred it would become incumbent upon me to protest most solemnly against such a proceeding, which my government would never tolerate, and which might produce the most deplorable consequences. Mr. Van Hall said that he hoped the contingency would not arrive, but that Gibson had been sentenced to twelve years' imprisonment by the high court of India; that he was a fugitive from justice; and that, under the laws of the country, he would be arrested if he showed himself in Holland, and sent back to India.

[Translation.]

THE HAGUE, *September 25, 1854.*

SIR: I hasten to acknowledge the receipt of your despatch of the 22d instant, and to tender you my thanks for the explanations you give me therein relative to the phrase contained in your communication of the 19th instant, the tendency of which had not been well understood.

I render full justice to the manner in which you have co-operated with me during your stay at the Hague, in cultivating the bonds of mutual friendship and good will which so happily exist between the two countries.

The contents of my communication aforesaid furnish a proof that I knew how to appreciate, and that I was anxious to preserve good relations not only between his Majesty the King of the Netherlands and the United States of America, but also between the worthy representative of those States and myself personally.

It is very agreeable to me to be able, in reply to your last despatch, to express to you all the satisfaction I feel in finding that the same sentiments are still entertained by you, as, indeed, I had no doubt of the fact.

I think, then, that it will be agreeable to you, and that we will do well to close all correspondence relative to an incident which I will willingly attribute to the fact that my less perfect knowledge of the English language had caused me to give to the word "*enforcement*" another construction than, after your explanations, it seems to me to belong to it.

I think it, moreover, advisable not to re-open the discussion. Only I may be allowed to assure you that I have too much respect for the government of the United States, for you, sir, and for the station I occupy, ever to resort, in our diplomatic communications, to arguments or assertions which I did not consider serious.

Accept, sir, the assurance, &c., &c.

VAN HALL.

Mr. BELMONT,

Chargé d'Affaires U. S. of America.

[Extract.]

[No. 1.]

UNITED STATES LEGATION, PARIS,

September 10, 1854.

DEAR SIR: I shall not require possession as soon as I expected of all the papers which are the subject of a reclamation on the part of the Minister of Foreign Affairs at the Hague, communicated to me by your note of 2d instant. When recovered, I design, as stated to you, to return them to the Dutch government. But I would suggest that you request the Dutch minister to furnish you with a list of the documents belonging to his government which he says had "*inadverdantly slipped*" ("*paraissant s' être glissées*") in among the papers belonging to me.

All the documents which I received were carefully arranged in methodical order, and bound together in parchment in three MSS volumes.

W. M. GIBSON.

Hon. A. BELMONT, *at the Hague.*

[No. 2.]

LEGATION OF THE U. S. AT THE HAGUE,
September 19, 1854.

SIR: In compliance with the note with which your excellency has honored me, under date of the 31st of last month, I have communicated to Captain W. M. Gibson your desire for the restitution of certain papers which had by mistake been delivered to that gentleman among the documents forwarded to me for him by your note of the 29th of June last.

Mr. Gibson has written to me that he is perfectly willing to restore these papers to you; but in order to enable him to do so, he wishes to receive at your hands a list of those which have by mistake been sent to him, and which you desire now to receive back.

I have the honor to renew, &c., &c.

AUGUST BELMONT.

His Excellency M. VAN HALL,

Minister of Foreign Affairs, &c., &c., &c.

[Translation.]

[No. 3.]

THE HAGUE, *September 23, 1854.*

SIR: I had the honor to receive your despatch of the 19th of this month. I saw with pleasure by it that Mr. Gibson had expressed himself willing to restore the documents which, through error, were added to the papers claimed by him, and which had not been intended for him. I hasten to return you my sincere thanks for your kind interference in the matter.

Mr. Gibson, however, has expressed a wish to be put in possession, no doubt for the purpose of facilitating the sorting of the documents, of a list of those the restitution of which is desired. Unfortunately, the Department of Foreign Affairs is unable to accede to this request. You will easily understand, sir, that the packages forwarded to Mr. Gibson, not having been opened at said department, where they were supposed to contain the documents claimed in your despatch of last January the 4th, the department has no knowledge of what they contained besides. If this were not the case, the mistake would not have been committed.

It appears to me that Mr. Gibson can very well select the pieces without any indication on our part, since he himself knows what belongs to him, and what does not belong to him.

If, however, he would rather not take this trouble, I will be obliged to you, sir, if you would propose to him to send you the packages, with all they contain; in which case I would hasten to sort them in your presence, in order to hand over to you, after having indicated the documents, the possession of which can be of no interest to Mr. Gibson, the papers claimed by him in the beginning, which have been restored to him without delay.

In the hope that, by either of these two alternatives, and with the aid of the indications above mentioned, the want of a list, such as Mr. Gibson desires, may be supplied,

I avail myself of this occasion, &c., &c.

VAN HALL.

Mr. BELMONT,

Chargé d'Affaires of the U. S. of America.

[No. 4.]

LEGATION OF THE U. S. AT THE HAGUE,

September 24, 1854.

DEAR SIR: Enclosed you will please find copy of a letter just received from the Minister of Foreign Affairs in reply to the request, made at your suggestion, for a list of the papers reclaimed by him.

It is for you to decide whether you will adopt either of the two modes proposed by the minister, and I await your further communication in that regard.

In reply to an interpellation addressed the day before yesterday in the First Chamber to the ministry, Mr. Van Hall gave a short statement of the present position of your case, of course from his point of view, which he closed by asserting that this government would not entertain your claim for indemnity.

Yours, &c., &c.,

AUGUST BELMONT.

To W. M. GIBSON, *Paris.*

STATES-GENERAL, SECOND CHAMBER—*September 26, 1854.*

Mr. Van Hoëveel has seen with interest, out of the speech of his Majesty, that continually assurances of friendship and good will are received from *all* the powers; consequently, also from North America. He is rejoiced at it, for he feels much sympathy for that young, powerful, enterprising people.

But old people ought to be circumspect and prudent about the friendship of young people: the former can often raise singular claims. Now he applies this remark to the affair Gibson, and the claim for an indemnity made by the American government. Countries which possess colonies ought to be especially on their guard as to America. We know, or we can know, what America intends in the Indian and Chinese seas. He proves it by a document published some years ago

by him, (Hoëvell,) viz: an advice of Mr. Palmer, presented in April, 1849, to the government of the United States, to which was annexed a memoir of a political and commercial nature about the empires (countries) in the East Indies. It indicates the way to extend authority and relations in the Archipelago. He reads fragments out of those documents, in order to show what are the intentions of America. Now, it is already proved that negotiations have been carried on with Japan exactly as is indicated in that memoir. He asks, whether what has happened at Djambi might not be a beginning of the execution of the hints given in that memoir, especially after the singular claim made by America in the affair Gibson? He desires to be informed whether what has happened with Gibson is an isolated act, and not connected with the conduct of the American government? What concerns the explanations given by the Minister of Foreign Affairs in the First Chamber, his speech is not yet printed; but he (Hoëvell) has heard that speech, and there results, also, out of it, that Gibson has shown himself in this country. About *one* point the minister has referred to the newspapers. He (Hoëvell) has then consulted them; but he was much astonished at the events related in them. He was much more astonished that the claim of Gibson was double: 1st, relating to an indemnification; and, 2d, relating to the restitution of documents, (private letters.) Now, the newspapers say that those documents have been returned. Is that true? Then he asks how it has been possible to yield to such a claim. Moreover, the papers add, that even the *corpus delicti* and documents of Indian authorities, nay, a confession of fault, have been returned. About this, also, he asks for explanations; for it is not to be expected from a ministry that takes so much care of the archives of India, (as results among others from the despotic decree of January the 15th,) that they would have left *such* documents in such hands. He agrees further with the minister, that Gibson should be shut up in prison at Batavia; but asks how it then is possible that he could have presented himself freely in this residence.

The Minister of Foreign Affairs says that he has briefly answered in the First Chamber to what had been asked him. He has, then, not referred to the newspapers to furnish a proof of facts, but indeed to the contents of Gibson's letter, that has been published in the newspapers. He has thus not referred in general to the newspapers, for it is well known that newspapers generally relate facts in the sense (spirit) of the party to which they belong; but now, as there has been written about the affair Gibson generally in those papers which are not in the spirit of the ministry, he can assure that those accounts were partly false and partly exaggerated. Now he proceeds to the giving of explanations: 1st. About the indemnification. This point is of great importance. He will not enter into considerations about the possible politics of foreign States. He only proceeds to give an account of the affair. The letter is, according to his opinion, an isolated act of a person whose former life resembled much Robinson Crusoe's. The affair has been instructed, and there exists a letter in which the fault is entirely acknowledged. *That letter is in the possession of the Netherlands government;* so that, whatever may have been published by the newspapers thereabout, is not conformed to truth. He relates afterwards the ulterior course

of the legal procedure, the flight of Gibson, &c. Speaking of the claims, the minister says that notes have been exchanged between the two governments. We have energetically protested against every claim to indemnification. The opinion (notion) of government is, that such a person can indeed undergo a punishment or implore grace, but never can reclaim an indemnification. He does not doubt but that the American government will approve the justice of this opinion. He feels much satisfaction to be able to add, that we are on the most amicable terms with the foreign powers. Of this we receive proofs, and this will ultimately be shown. What thus the royal speech has said thereabout, is perfectly just. He repeats, once more, that the act of Gibson is an isolated act. Of this he is convinced. But should it be asked him positively, then he must say that a negative proof is difficult to be furnished. As to the stay of Gibson in the residence, and his showing himself freely at large, the minister says that Mr. V. Hoëvell seems to insinuate that it would have been advisable, at the moment that notes are exchanged, and in face of the incertitude whether Gibson might be arrested here, to arrest him at once. He will not examine this question closely, but say, about the fact itself, that it is true that Gibson has been a short time at the Hague to communicate with his minister. But as soon as he has perceived that the attention of the public was fixed on him, he is gone off and not returned. 2d. What relates to the returning of documents. Says the minister, the American government has never *required* any other thing than an indemnification, and has only *begged* the returning of some private letters and books. He asks whether this will be blamed by the representants of the Netherland people? For this act he constitutes himself responsible; as also for the consequences. It has been said, that documents relating to the lawful procedure have also been returned; and even the *corpus delicti* and the self-criminating acknowledgment of Gibson. The minister answers, that this is not exact *as what concerns the last*. But it is true, that, through error, documents not belonging to Gibson have been returned. Now this was an error. They were documents belonging to the process. Which they were exactly, he is ignorant of. The whole was in one packet, and by an error in the office they have been returned to the American minister with the private documents. But as to the reclamation itself, these documents are quite valueless, for all is *anterior* to the sentence of condemnation; and then it is indifferent to him—it has nothing to do with the reclamation. The minister adds to it, that according to a communication of the American government, those documents will be returned to us. He deplures, however, the error; it is committed by functionaries of whom can be said that it is the first error they have committed. He does not believe that that error can be imputed to the minister, who cannot be, indeed, at the office of despatch. He has heard, with regret, that Mr. Van Hoëvell has styled the decree of January 1st, a despotic measure. If that were true, then the representation of the people ought not to suffer it, but ought to impeach the minister who has co-operated in it. The taking care of the Indian archives is, however, a duty incumbent on government; because many people seek, whatever may be their intentions, to render themselves masters of documents belonging to those archives.

Mr. Van Eck has again spoken of the affair Gibson. Previously he has testified his regret at the censure which the Minister of Foreign Affairs, according to his (Mr. Van Eck's) opinion, has thrown on the *Netherland Journalistic*, by saying that the papers represent the facts according to the spirit of the party to which they appertain. The *Netherland Journalistic* does not deserve that reproach. As to the affair of Gibson, he has expressed his astonishment that so much indulgence has been shown him at Java, which he considers as the first cause of all the other complications. It was against the honor and dignity of this country to admit him here without any obstacle. He asks, also, which documents have properly been delivered to Gibson.

The Minister of Colonies declares that a severe inquiry had been instituted about Gibson's flight. Gibson has abused of the liberty that had been granted him for the sake of his health. The Minister of Foreign Affairs cannot say which documents have been delivered. This is the best proof that an error has been committed. The restitution of the documents having been promised, it would be wrong to indicate to which of the documents to be returned the government has a right.

Mr. Marcy to Mr. Belmont.

[No. 19.]

DEPARTMENT OF STATE,

Washington, October 3, 1854.

SIR: I have received your despatch No. 25, dated the 9th ultimo, relative to your proceedings in regard to Mr. Gibson's claim upon the government of the Netherlands, in which you express some disappointment that you had not yet received the instructions asked for in your No. 20.

I did not suppose that you expected "the specific and definite instructions," therein suggested, were to precede the anticipated result, which you conjectured would be unfavorable. I thought that any communication to the government of the Netherlands coming from or authorized by your own after it was apprized of the rejection of Gibson's claim, would be likely to be more effective than instructions in anticipation of such rejection. Besides, I did not see in that stage of the case how I could be more specific and definite than I had been in the instructions already in your hands. In a former despatch, you were instructed "to press the speedy and amicable adjustment temperately, but resolutely." What more could be said in relation to your action pending the negotiation? I thought reiteration unnecessary—I had no more facts to place at your disposal.

Some time since I heard from a private source that you were waiting and expecting further instructions, and I at once took up the case with a view to present to the consideration of the President for his direction thereon, and to my surprise I discovered that the paper containing Mr. Gibson's statement of his case was not to be found on the files of the department. Without this statement, it was impossible to present the case fully to the President; nor was I able to dispose, to my own satisfaction, of some of the objections, apparently somewhat formidable, in

Mr. Van Hall's note to you of the 29th of June. All the papers in the case were in the hands of the Assistant Secretary, Mr. Mann, who was then absent in Europe on a private visit, and who had had the principal management of Gibson's claim.

It is the impression in the department, that in the hurry to get that statement into your hands, the one Mr. Gibson handed in was sent to you, relying on his promise to furnish one for the files of the department; which promise has not yet been fulfilled. His engagement to furnish another is, I presume, the reason why a copy, as usual, was not made before the original was sent to you. It is certain that no such statement can be found in the department, and without it no further communication can safely be made to you on the merits of the case. The term of absence allowed to Mr. Mann has expired, and he is daily expected here. He will probably be able to account for the absence of the statement. When he returns, the subject will receive due consideration. You have done promptly and faithfully your duty in the case.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

AUGUST BELMONT, Esq., &c., &c., &c.

Mr. Belmont to Mr. Marcy.

[Extract.]

[No. 31.]

LEGATION OF THE U. S. AT THE HAGUE,

October 13, 1854.

SIR: With reference to my despatch (No. 29) of 29th of last month, I have the honor to hand you again enclosed copies, marked No. 1 to 3, of a letter addressed to me by Mr. Gibson, of my note written in consequence of this communication to the Minister of Foreign Affairs, and of the reply of that gentleman. They all have reference to the papers of the Dutch government, which were given over by mistake to Mr. Gibson, with his own. That gentleman now requires, as a condition of their restitution, that the minister should, over his own signature, describe them as containing most conclusive evidence of the irregularity and vindictiveness with which Gibson had been prosecuted in India. This condition the minister very naturally refuses to subscribe to, and I have communicated to Mr. Gibson copy of his note containing this refusal.

[No. 1.]

UNITED STATES LEGATION, PARIS,

September 29, 1854.

DEAR SIR: I have the honor to acknowledge yours of the 24th inst., containing a further request from the Minister of Foreign Affairs at the Hague, in reference to the papers given me by his order while at that place. In a former letter the minister speaks of certain papers

which he says have slipped into the collection, as if he knew the nature of them, and I very naturally responded, asking him to designate the precise documents he desires. Now, however, he says he is entirely ignorant of the contents of these packages, and asks that all may be returned.

This I can by no means consent to. A large number of these documents are made up of private papers of my own, a part of which were wrongfully seized upon by the Dutch authorities in Java, when I was so shamefully maltreated, and of course, by whatever means they return to my possession, they are mine, and as such I shall retain them. I find also important papers connected with the investigation at Batavia, which by the laws of Holland should have been given me, and but for this providential blunder of the Minister of Foreign Affairs, I would never have known were in existence. For instance, the opinion of the prosecuting attorney, De Wal, 18th August, 1852, stating forth the illegality of my arrest, the entire absence of all law and fact authorizing my detention, and calling upon the tribunal to set me at liberty, and others of importance. The rest having an important bearing upon my case, as showing the outrageous injustice of the authorities at Batavia, I am having copied and authenticated; and when the proceeding is completed I will return them, as I have stated in my note to you of 10th of September. If, however, the Minister of Foreign Affairs wishes to shorten this tedious process, by announcing to you in writing, over his own signature, that he desires to get from my possession the following documents, I will at once forward the entire collection to the Hague, subject to his order:

1. A confidential letter from Col. De Brauw, resident of Palembang, to the governor general of Netherlands India, Mr. Duymaer Van Twist, in which he (De Brauw) mentions that he regards me as a dangerous representative of American progressive principles, and that unless I am put to death he cannot answer for the peace of the territory of Palembang.

2. A confidential note of resident Schaap, of Mintok, (Banca,) to the governor general, setting forth that he regarded me as a dangerous American, and had employed Lent. Boy Yensen, commander of the Netherlands war-schooner the "Niobe," to spy upon my movements. It is also established by the letter and accompanying papers that one of his (Schaap's) private police, called Bahdoo Rachman, had been given me as a spy in the guise of a servant, to wait upon me in my cabin.

3. A letter from the admiral (Schont by Nacht) Mr. Vander Plaats, at Batavia, to the officer of justice, M. De Wal, showing that I had been seized and was held by military authority.

4. Instructions to Mr. Vermandle, an officer on board "Ardjoes," to spy upon my movements and conversation.

5. Document of date April 30, 1852, setting forth the unconditional liberation of the crew of the "Flirt," without assigning any cause of their arrest; four having perished in consequence of the brutal treatment of authorities in Netherlands India.

6. Requisition of M. De Wal, the prosecuting attorney, or fiscal, setting forth that there were no terms to bring my case into judicature,

expressing that the whole procedure was outrageous and contrary to law.

7. Sentence of liberation, of February 22, 1852, by court of justice.
8. Sentence of acquittal, August 25, 1852.
9. Re-arrest of high court, September 2, 1852.
10. Acquittal by court of justice, December 22, 1852.
11. Re-arrest by high court, December 30, 1852.
12. Final acquittal by court of justice, of March 5, 1853.
13. Ultimate reversion of decision by high court, May 3, 1853.
14. Instructions of attorney general, Mr. Wynmalen, that my conviction must be obtained at all hazards.

15. Declaration of Daniel Fischer, harbor-master at Palembang, that he had been induced to sign the procès verbal of my arrest without seeing its contents.

16. Letter and document relative to Governor De Brauw, showing that on account of the presentation of a curious Mexican relique to his wife, his jealous, vindictive feelings were excited against me.

17. Document implicating Commander Nicolson, of the gun-brig "Pylades," in a design to abduct a young Malay woman at Palembang, called Sahduah, and his vindictiveness against me, on account of my having thwarted him, through my friendly relations with the chief, her grandfather.

18. Documents setting forth that Bahdoo Rachman, Moonchwa, and Kiagoos Lanang, the witnesses against me, are now in the employ of the government at Batavia.

Many other documents of minor importance I do not enumerate. You will perceive, that by such request I secure the authentication which I am now delaying to procure.

I say to you frankly, sir, that I cannot trust a ministry which so far has given the most conclusive evidences of a total disregard of fair dealing.

I am, &c., &c.,

WALTER M. GIBSON.

Hon. A. BELMONT,
U. S. Minister at the Hague.

[No. 2.]

LEGATION OF THE U. S. AT THE HAGUE,

October 6, 1854.

SIR: Mr. Gibson, to whom I had communicated a copy of the note with which your excellency has honored me, under date of 23d past, refuses, to my regret, to accede to either of the modes, proposed by you, which would bring about the restitution of the papers handed over to that gentleman by mistake.

He is still willing to return the papers not belonging to him; but he wishes that you should address me a note, by which you request the restitution of the following documents:

1. The opinion of the prosecuting attorney, De Wal, of 18th August, 1852, setting forth the illegality of Gibson's arrest.
2. A confidential letter of Col. De Brauw, resident of Palembang, to the governor-general of Netherlands India, in which he mentions that

he regards Gibson as a dangerous representative of American progressive principles, and that unless he (Gibson) be put to death, M. De Brauw cannot answer for the peace of the territory of Palembang.

3. A confidential note of the resident Schaap, of Mintok (Banca,) to the governor-general, setting forth that he regarded Gibson as a dangerous American, and that he had employed Lent. Boy Yensen, commander of Netherlands war-schooner the "Niobe," to spy upon the latter's movements.

4. A letter from the admiral, (Schont by Nacht,) M. Vander Plaat, at Batavia, to the officer of justice, M. De Wal, showing that Gibson had been seized and was held by military authority.

5. Instructions to M. Vermandel, an officer on board the "Ardjoes," to spy upon his movements and conversation.

6. Document of date April 30, 1852, setting forth the unconditional liberation of the crew of the "Flirt," without assigning any cause for their arrest—four having perished in consequence of the brutal treatment of the authorities in Netherlands India.

7. Requisition of M. De Wal, the prosecuting attorney, setting forth that there were no terms to bring Gibson's case into judicature; expressing that the whole procedure was outrageous and contrary to law.

8. Sentence of liberation of 22d February, by court of justice.

9. Sentence of acquittal of 25th August, 1852.

10. Re-arrest of high court, of September 6, 1852.

11. Acquittal by court of justice, 22d December, 1852.

12. Re-arrest by high court, 30th December, 1852.

13. Final acquittal by court of justice, 5th March, 1853.

14. Ultimate reversion of decision by high court, 3d May, 1853.

15. Instructions of attorney-general, Mr. Wynmalen, that Gibson's conviction must be obtained at all hazards.

16. Declaration of Daniel Fischer, harbor-master of Palembang, that he had been induced to sign the procès-verbal of Gibson's arrest without seeing its contents.

17. Letter and document relative to Governor De Brauw, showing that on account of the presentation of a curious Mexican relique to his wife, his jealous and vindictive feelings against Gibson were excited.

18. Document impeaching Commander Nicolson, of the gun-brig "Pylades," in a design to abduct a young Malay woman at Palembang called Sahduah, and his vindictiveness against Gibson on account of his supposition that the latter had thwarted him, through his friendly relations with the chief, her grandfather.

19. Documents setting forth that Bahdoo Rachman, Moonchwa, and Kiagoos Lanang, the witnesses against Gibson, were now in the employ of the government of Batavia.

If you conclude to send me a letter containing the aforesaid list of documents, and requesting their restitution, I shall forward copy of your communication to Mr. Gibson, who has declared his willingness to return them under these conditions.

I have the honor, &c., &c.,

AUGUST BELMONT.

His Excellency Mr. VAN HALL,

Minister of Foreign Affairs.

[Translation.]

[No. 3.]

THE HAGUE, *October 8, 1854.*

SIR: I have the honor to acknowledge the receipt of your despatch of the 6th of this month, relative to the restitution of the documents which have been handed to you, through mistake, by my department, and which have been unlawfully kept by Mr. Gibson.

While I thank you for the trouble you have taken, I regret that I cannot comply with the conditions which Mr. Gibson attaches to this restitution. I still flatter myself that, upon being better advised, he will cease to raise difficulties, and will end by himself wishing the restitution of that which does not belong to him, always preserving what the government of the Netherlands, at your request, has caused to be forwarded to him, as his own property.

Accept, sir, &c., &c.

VAN HALL.

Mr. BELMONT,
Minister Resident, &c., &c.

Mr. Belmont to Mr. Marcy.

[Extracts.]

[No. 34.]

LEGATION OF THE U. S. AT THE HAGUE,
October 25, 1854.

SIR: I have the honor to acknowledge the receipt of your despatch of 3d of this month, (No. 19,) and have taken due notice of the reasons which made you prefer giving the definite instructions asked by me, in anticipation of a refusal of this government to admit Mr. Gibson's claim, only after you were apprized of that rejection.

* * * * *

I am much obliged to you for the expression of your satisfaction with my conduct in this case. The acknowledgment of my services from so distinguished a source is most gratifying to my feelings, and repays me for a good deal of anxiety, labor and mortification, which I have had to endure in the faithful discharge of my duties.

As you mention that the paper containing Mr. Gibson's statement of his case was not to be found on the files of the department, having probably been forwarded to me without retaining a copy, Mr. Gibson having promised to furnish another one, I beg to return you herewith the one sent to me, and of which I have retained a copy here.

I have the honor to remain, with profound respect, sir, your very obedient servant,

AUGUST BELMONT.

Hon. WM. L. MARCY,
Secretary of State, Washington.

Captain Gibson to Mr. Marcy.

WASHINGTON, D. C., November 11, 1854.

SIR: My application for the intervention of the government upon a claim of indemnity against the Dutch government having been favorably considered—the means of amicable adjustment having been availed of and exhausted without a successful issue, I am constrained to urge a resort, on the part of the government, to the only means remaining for enforcing the just demands that are the subject of that application.

I am fully sensible that while it is the first duty of a nation to protect its citizens, and to redress their wrongs, whether inflicted by its own subjects or by foreign potentates or subjects; yet that the appeal of the citizen to the arms of his country is the most solemn, as it should rightfully be the last effort to obtain redress.

Impressed with the belief, founded upon the facts of history, that the government of my country is among the foremost to recognise and enforce the rights of citizens, I feel that no argument or incentive is wanting to secure its aid in a just cause; yet when I consider the nature of the means which, in the last resort, nations must employ to enforce their just demands, it seems appropriate that the appeal of the citizen should be solemnly recorded, and the necessity and justice of its allowance be made manifest.

I need not refer to the facts of my case so far as they have been considered in reference to the diplomatic action of the government. The grounds upon which the Netherlands India government proceeded against me have been seen and considered. They have been formally adjudged insufficient. That government, eager to justify its conduct, has been heard through its ablest agents. Our minister at the Hague has transmitted the ultimate conclusion of his government upon the case, in the form of an unqualified demand of redress. That denied, he has formally notified that government, through its Foreign Office, that the rejected claim would be returned to his government for enforcement.

I trust it may not be regarded as irrelevant, notwithstanding the firm and well considered attitude of the government, to allude to facts not hitherto laid before the government, which confirm the necessity and justice of the course it has hitherto pursued on this subject. The extraordinary circumstances under which very important documents have come to my hands, throwing light upon the motives of the Dutch in their conduct towards me, are fully known to the government. Those circumstances render the evidence furnished by these papers unquestionable. The documents to which I would particularly call attention of the government, are:

First: A letter of Mr. Schaap, the resident of the island of Banca, addressed to the governor general of Netherlands India. He announces the arrival of the "Flirt" in the roads of Mintok; states suspicions of the objects of the visit; details a variety of unimportant conversations and circumstances occurring principally on social occasions, in the style of one who is charged with the meaner duties of a disguised espionage to a superior. He also states the fact of hav-

ing detailed an inferior officer to combine the duties of a spy and the character of a representative of the hospitalities of Mintok.

Second: A letter of Col. De Brauw, the resident and military commandant of Palembang, to the governor general at Batavia, exhibiting the same system of espionage. He stigmatizes my political views and adventurous character, as of the kind common to Englishmen and Americans; shows that he was in active communication with the persons in my employment, who not only wrote the supposed treasonable letter addressed to the Sultan of Jambee, but had the advantage of me in being the only persons who could read or inform me of its contents; and, furthermore, this functionary chooses to assert that unless I be capitally punished, he could not be answerable for the tranquillity of the territory of Palembang.

Third: A paper resented by the officer of justice at Batavia, Mr. De Wal, to the court of justice, establishing the illegality of my arrest, and stating that the testimony of the Malay witnesses, upon whose statements the prosecution must rely for success, was so grossly contradictory as to be unworthy of belief.

It will be recollected that for this opinion De Wal was immediately removed from office; and one Mr. Nolthenius, who had for years been dependent upon the government in the office of the crown solicitor, was appointed in his stead.

Fourth: The testimony of Mr. Vermandel, a naval officer, detailed to sound me, in familiar conversation, in regard to my political opinions and tendencies, and to report the result to the government.

Fifth: The four decisions of the local court of justice of Batavia in my favor.

It is unnecessary to add comment to the clear light that these documents throw upon my case. Viewed in connexion with these facts, brought forward in my communication to the department of the 26th May last, they place the hostility to myself upon the broad ground of my national character, and indicate what every American citizen may expect, who avails himself of the right secured by our neutrality and treaty relations with Holland to visit, either for pleasure, business or information, the waters of the Eastern Archipelago.

Considering the adjudication of the merits of my case, and the strong facts that give a national interest to the controversy, I believe I am justified in assuming, that active measures will be adopted to complete what has been already begun by pacific agencies.

As to the nature of these measures, the opinions of all writers upon public law, and the precedents of our own as well as of other countries, recognising the same principles of international law, point to armed reprisals as the appropriate means of redress.

My confident conviction that the employment of these means will lead to great and eminently desirable results, upon our intercourse with the East, assures me in urging this course upon the government. A disastrous result to the government would be equally disastrous to myself; for, in the event of success, alone, can I look for the long sought indemnity. I cannot, therefore, be controlled by entirely selfish and personal considerations, regardless of the influence of the course proposed upon the general interests of the nation.

Oct. 5512 a 64313 SA
The fabric of injustice created in the Eastern Archipelago will fall, without a blow, with the first spirited assertion of the liberal principles that are at this day professed by all civilized nations. The moment it is generally recognised that the same rights and sanctions that appertain to the intercourse between the European and American powers are applicable to the political condition of the East, the barriers that shut our commerce from its seas and islands will disappear.

While these considerations furnish no argument for a resort to belligerent means, they justify a confidence that the interests of our nation will sustain no loss, and its honor no diminution, from so solemn an act of justice.

I have the honor to be, with profound respect, your most obedient servant,

WALTER M. GIBSON,
N. W. corner of C and 4½ Sts.

Hon. W. L. MARCY,
Secretary of State, Washington, D. C.

I herewith transmit the documents above alluded to, for the inspection of the department.

An official translation of the four decisions of the court of justice at Batavia, and of the letter of Col. De Brauw, will be found among the despatches of Commissioner Marshall, and of the acting United States commercial agent, Mr. Cramerus, at Batavia. W. M. G.

